BANKS UNDER

ROOSEVELT

THE BANKING CRISIS AND RECOVERY

UNDER THE

ROOSEVELT ADMINISTRATION

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CHICAGO
CALLAGHAN AND COMPANY
1938

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PREFACE

During the years it has been my privilege to serve President Franklin D. Roosevelt as Comptroller of the Currency, I have become impressed with the desire of the public for more information relating to banking and especially to the recent banking crisis and the manner in which the Roosevelt Administration dealt with that crisis. Inasmuch as the Bureau of the Comptroller of the Currency has been for seventy-five years charged with the duty and responsibility of supervising the national banking system, it has seemed appropriate to have prepared the following summary of the activities of the Federal Government in dealing with the rehabilitation and reconstruction of the banking system.

Every effort has been made to record this information in non-technical language and to deal adequately, yet simply and briefly, with the enormous amount of available data.

There has been placed in the appendix the text of documents in their original form which are considered valuable for a permanent record in connection with the activities of the Government relative to the banking crisis.

May, 1938

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CHAPTER I

Introduction

Much has been written with respect to the banking holiday in 1933 and certain phases have been covered in official statements issued from time to time, but no attempt has been made heretofore to deal fully with this phase of our banking experience. It is felt that sufficient time has elapsed and the work of cleaning up the wreckage has progressed so far that the matter can be now dealt with accurately from an historical standpoint.

In order to understand more clearly the work involved, it is considered desirable to cover briefly the organization and duties of the Bureau of the Comptroller of the Currency.

The Bureau was established May 9, 1863, pursuant to a law signed by President Lincoln February 25, 1863, and which was enacted for the primary purpose of assisting in financing the Civil War. A secondary purpose was the establishment of a circulating medium designed to move freely at par throughout the United States, without regard to the bank issuing such currency. It is from this secondary purpose that the Bureau probably acquired its name. The principal officer is the Comptroller of the Currency. Serving under him in Washington at this time as principal executive officers are three Deputies Comptroller, a General Counsel, and a Chief National Bank Examiner.

The authority for establishing new national banks is vested by law solely in the Comptroller of the Currency.[1] All na-

[1] Title 12, U. S. C., sec. 26.

tional banks must obtain from him an authorization to begin a banking business.[2] And no branch can be established without his approval[3] The Comptroller is required by law to have all national banks and branches thereof examined twice each year.[4] He is empowered to issue regulations with reference to certain phases of the operation of such banks. He has the duty of supervising the operation of national banks which are in conservatorship,[5] perfecting and approving all plans of reorganization for national banks which are in financial straits,[6] and liquidating those for which he finds it necessary to appoint a receiver.[7]

The Comptroller's office, under existing law, is in a position to require national banks to maintain a sound capital structure and also to prevent the organization of a new national bank unless it has an adequate, sound capital structure and unless there is need for additional banking facilities in the location chosen and there is a reasonable prospect that the bank will operate successfully.

For convenience of administration, the Bureau has five permanent divisions; i. e., Examining, Insolvent, Legal, Organization and Statistical.

Incident to the problems arising immediately following the banking holiday, there were established two additional divisions, known as the Conservatorship and Reorganization Divisions. The activities of these two emergency divisions will be dealt with more fully subsequently.

The Examining Division conducts the examination of national banks and their branches, including the review of reports of examination. Such banks are examined only by national bank examiners under the direct supervision of the Comptroller of the Currency. In certain instances, where the Reconstruction Finance Corporation purchases preferred stock in a national bank, that Corporation may, by contract, obtain the right to examine certain assets. In the case of the Federal Deposit Insurance Corporation, which also maintains an examining force, the law specifically states that that Corporation may make an examination of a national bank only with the written consent of the Comptroller of the Currency.[8] That Corporation, normally, would request the right to ex-

[2] Title 12, U. S. C., sec 27
[3] Title 12, U. S. C., sec. 36.
[4] Title 12, U. S. C., sec. 481.
[5] Title 12, U. S. C., sec. 203.
[6] Title 12, U S. C., sec. 207.
[7] Title 12, U. S. C., sec. 191.
[8] Title 12, U. S. C., sec. 264(k)(2).

amine such a bank only in cases where a merger was contemplated and a loan was sought for the purpose of effecting such merger. The Federal Reserve Banks may, under certain conditions, make special examinations of national banks but as a general rule they accept the examinations made by the Comptroller's office. In conformity with the law, copies of reports of examinations made by national bank examiners are made available upon request, to the three above-mentioned agencies.[9]

The frequent public references to dual examinations or duplication of examinations by several governmental agencies are based on a lack of knowledge of the law and the facts.

In the discharge of the functions relating to the examination of national banks there is a Chief National Bank Examiner who is assisted by seven Assistant Chief National Bank Examiners with headquarters at Washington. For examination purposes, the United States is divided into districts, coinciding with the various Federal Reserve Districts. Each of these districts has a District Chief National Bank Examiner, with headquarters in the city in which the District Federal Reserve Bank is located, with the exception of the Fifth Federal Reserve District, in which the office of the District Chief National Bank Examiner is consolidated with that of the Chief National Bank Examiner in Washington. These districts are in turn divided into several sub-districts, with one or more national bank examiners having headquarters in one of the principal cities of that sub-district.

There were, as of December 31, 1937, five thousand two hundred and sixty-six national banks, with one thousand five hundred and fifty-nine branches, and eighty-eight foreign branches.[10]

The national bank examiners also conduct investigations in connection with applications for new national bank charters, examinations of bank affiliates, and examinations of State banks in cases of application for permission to convert into national banks.

In addition to the examinations indicated above, there were as of December 31, 1937, eighty-eight foreign branches of national banks, with main offices in this country, which are examined by national bank examiners. The eighty-eight foreign branches are located in twenty countries. Of the five

[9] Title 12, U. S C., sec 264(k)(4) and Title 15, U. S C., sec 608.

[10] This does not include thirteen State banks in the District of Columbia which are also under the supervision of the Comptroller and which are examined by national bank examiners.

thousand two hundred and sixty-nine national banks above referred to, five are located in Alaska, one in Hawaii, and one in the Virgin Islands, and these are, of course, examined regularly by national bank examiners. At the request of the Board of Governors of the Federal Reserve System, national bank examiners also examine subsidiaries of the International Banking Corporation of New York located in France, England, and Spain.

The Insolvent Division under the supervision of the Chief Supervising Receiver, who is also the first Deputy Comptroller, has charge of the administration and liquidation of insolvent national banks. This particular division will be referred to in more detail later.

The Legal Division in charge of the General Counsel is composed of a comparatively small staff of lawyers who have specialized in the law pertaining to banking. The work of the Legal Division may be divided broadly into two classes: First: Advice, rulings, and decisions upon matters relating to: (a) solvent national banks which are operating as going concerns, including interpretations and constructions of existing laws and the consideration and preparation of prospective banking legislation; (b) the issuance of preferred stock in going national banks and the scope and extent of rights, liabilities and duties incident thereto; (c) the reorganization of national banks, including the drafting of plans of reorganization and legal documents in connection therewith; and (d) the liquidation of insolvent national banks. Second: Supervision over, and, where advisable, actual participation in litigation incident to the foregoing fields of activity.

Since the banking holiday the Legal Division has handled approximately fifty thousand cases in various courts throughout the land relating to the liquidation of national banks in receivership. These cases involved practically every phase of receivership operations and the decisions thus rendered, particularly those in cases which were carried to the Supreme Court of the United States, have clarified or virtually restated the great body of law relating to receivership liquidation. All cases in the Appellate Courts are actively supervised by this Division, the proceedings and record are examined and analyzed, citations of authorities are given and in many instances the briefs are entirely revised or rewritten by the attorneys in this Division. Where necessary, attorneys from the office participate in the argument of these cases. All cases reaching the Supreme Court of the United States incident to the

receivership work are, except in occasional instances, participated in or handled entirely by the attorneys of this Division. In addition, from time to time, members of the staff of the Legal Division appear as a friend of the court in cases involving questions pertaining to going bank problems.

As will be seen subsequently, legal questions requiring solution in connection with conservatorship and receivership banks both as to their commercial operations and their trust or fiduciary operations are enormous in volume. Questions of policy to be determined require in every instance a careful examination of the applicable laws and court decisions and of the legal effect of the policy under consideration. For these reasons, the Conservatorship Division and Reorganization Division required the assignment of certain attorneys for constant consultation and consideration of the problems with which they were confronted.

The Organization Division has charge of all details of the work incident to the issuance of certificates of authority to newly-organized national banks to begin business, all work in connection with the increase and decrease of capital, the consolidation of such banks and the maintenance of branches. It also authorizes purchases and retirement of preferred stock, either in existing or newly-organized national banks, and is in charge of the records incident to national banks that have been voted into voluntary liquidation by their shareholders. The functions of this Division are under the supervision of an Acting Chief and the general supervision of a Deputy Comptroller.

The Statistical Division, under the supervision of a Chief and general supervision of a Deputy Comptroller, as its name indicates, has charge of and compiles statistical data relating to all banks. This is necessary because under the law the Comptroller of the Currency is required to assemble data relating to all banks, whether national or otherwise, for the use of Congress and other branches of the Federal Government.[11] In addition, the Comptroller is required to submit an annual report to the Congress dealing with the activities of the office, data as to the banks, and such recommendations as to changes in existing law or suggestions as to new laws relating to national banks as in his judgment may seem wise and proper to increase the security of their depositors and creditors.[12]

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[11] Title 12, U. S. C, sec 14.
[12] Title 12, U. S. C, sec. 14.

CHAPTER II

Conditions Contributing to the Banking Crisis

In its origin and early development and down to comparatively recent times in some instances, banking was considered to be strictly the private affair of the banking proprietor with an absolute right to own and operate his bank without any supervision or control whatsoever by governmental authorities. Exemplifying this may be noted the case of *State v. Scougal,* decided as late as 1892.[13] In that case, the legislature of South Dakota had passed a law providing for the formation of banking corporations and making it unlawful under penalty of fine or imprisonment to engage in banking without first obtaining a franchise or charter from the State. Scougal was prosecuted for operating a bank without obtaining a charter. He contended the statute was unconstitutional. The court held that the business of banking was open and free to all citizens as a matter of common right and that the State statute was violative of that right. It is interesting to note the reasoning of the Justice who in part said:

> "Whence, then, did the legislature of this state derive its power to farm out these privileges * * * and to deny to the individual citizen the right to exercise them, which he and his ancestors have from time immemorial possessed? Can the legislature create a franchise by depriving citizens of their rights, and then bestow it upon another at will? If it can, then the citizen has no rights that may not be taken from him under this new theory of a franchise created by the legislature. * * * In our opinion, no such power exists in the legislature * * * of creating a franchise out of the * * * common rights of the citizens. * * * Hence we conclude that the individual citizen cannot be deprived of a right always possessed by him, of conducting a banking business, * * *."

This decision has never been overruled and has been cited as late as 1929 as authority for the proposition that a State cannot prohibit an individual from carrying on the business

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13 51 N. W. 858.

of banking, although it can regulate the business so long as such regulation does not amount to a prohibition.

A multiplication of examples would serve no useful purpose but it is not difficult to understand how such concepts must inevitably have led to disaster. Some progress was made in the course of our economic and political development to the end that the State, (using the term in a generic sense as referring to both Federal and State Governments) was recognized to have the right of supervision and regulation, and the right to require the issuance of a charter or franchise as a prerequisite to the opening of a bank.

It was simple to be a banker. Charters were comparatively easy to obtain. With money necessary for initial capital, the depositary money was anxious to find a resting place in return for the privilege of safekeeping and check drawing. Banks became too numerous; competition too great; necessity for profits too urgent.[14]

Eventually and inevitably it became fully recognized that banking is a matter of public concern affected with a public interest, and relief by effective regulation became imperative.

Prior to 1933 there were four types of commercial banking institutions in operation in this country; namely, national banks, State banks which were members of the Federal Reserve System, State banks which were not members of the Federal Reserve System, and private banks. There were approximately 19,000 of these institutions having resources of approximately fifty-six billions of dollars. One-third of the total of this group consisted of national banks, which held two-fifths of all the banking resources. The State banks were organized under State laws and governed by State regulatory bodies, while private banks were, in some States at least, not subject to any regulation. National banks were, as stated, organized and regulated under the supervision of the Comptroller of the Currency.

In 1933 the country was gripped with financial chaos; banks were closing, checks were unpaid. Travelers were left stranded without ready funds and credit was at a standstill. Men and women with life savings and business earnings deposited in banks stormed doors to retrieve their fortunes be-

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[14] An extract from the report of the Research Committee, Indiana Bankers Association, published in 1937, covering an exhaustive survey of the banking facilities of that State, is indicative of the condition throughout the United States. (For text, see Appendix at page 85.)

fore it was too late Refuge was sought in hoarding and exporting capital to foreign shores. Obviously, the roots of these conditions dated back a number of years, and are entwined in the overbanked condition of the country. Of course, there are many and varying basic economic causes but one or two immediate causes are sufficient The most obvious was the stock market crash of 1929. Speculators were caught in the crash as well as those who considered themselves prudent investors. This was true of many corporations in the country, including banks The effect of this crash on the capital structure of the banks in part is traceable to certain practices by banks prior to the crash.

They were desirous of participating in the profitable ventures of stock investments then indulged in by a heavy proportion of their depositors and some had been drawn into the hectic stock purchasing rush These had set up affiliates for dealing in securities. Their directors had become directors on boards of numerous corporations interested in these ventures. Many bank officials had borrowed heavily from their own or other banks to purchase stock which was pledged as security for their loans. The banks had made loans to many borrowers, both individuals and corporations, and accepted stock as collateral security. Many loans were made to bank affiliates which dealt solely in securities And the depression that followed after 1929 aggravated the financial difficulties.

When the resulting rapid decline in the prices of corporate securities came, the resources from which loans normally are repaid were depleted. The reserves of many corporations and individuals were rapidly reduced and in some cases wiped out. Thus, many banks were left with very substantial loans to borrowers secured by inadequate collateral with small hope of collection from the debtors whose other resources had been depleted from the same cause.

The confidence of the people of the nation in our financial structure had been badly shaken as the result of the crash. That factor played a large part in the following months and years. New industries and normal trading activities were at a low ebb. Few dared venture into new business endeavors because credit and normal trading relations were crippled. Many persons who had ready funds or credit transferred them into foreign securities or deposited them in foreign banks, seeking to conserve what had been salvaged from the 1929 debacle and the depression conditions following. Hoarding became prevalent.

The importance of the hoarding factor in banking failures prior to the banking holiday was recognized in the Comptroller's Annual Report to Congress as of the close of the fiscal year 1931–1932, in which it is stated that beginning with the autumn of 1930, there was a recognized trend toward demanding currency for hoarding purposes. It was estimated that in the middle of July, 1932, the total hoarded currency in the country was in excess of one and one-half billions of dollars. While the essential cause of hoarding was due in a large measure to the shaken confidence of the people upon observing the rapid increase in the suspension of banks, the hoarding movement itself added to the strain on the banks.

Withdrawals of deposits for the purpose of hoarding differ from withdrawals for ordinary business purposes in that the funds involved are neither used nor returned to the banks but are completely withdrawn from circulation. Between 1928 and the end of 1932, deposits in banks throughout the country declined from a total of approximately fifty-six billions of dollars to approximately forty-one billions of dollars. During the same approximate period, the increase in Postal Savings deposits was tremendous. At the close of the fiscal year 1928, the balance to the credit of depositors in the Postal Savings System was approximately one hundred and fifty millions of dollars, whereas at the close of the fiscal year 1933, these deposits had increased to over one billion dollars.[15]

From the year 1930 on, it was evident that the public had become apprehensive over the safety of its deposits. Many sound banks, unable to meet the withdrawals, were obliged to close under the most adverse conditions.

Under ordinary circumstances the failure of one banking institution does not seriously affect other banks except to contribute to the loss of confidence of depositors but where there is one interlocking control relating the closed bank to several other banks, the effect of the failure of one of the group seriously jeopardizes the others in that group. This group banking condition was existent in many States and was usually conducted through the means of holding companies.

A typical holding company set-up consists of a number of banks, either State or national, the majority of whose stock is held by a company organized for the specific purpose of obtaining and holding bank stock. Usually the charter of the

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[15] See table in Appendix at page 86.

holding company includes broad powers so that in addition to acquiring and owning stock in banks, the company can purchase stocks of other corporations, deal in securities, borrow money, and the like. In some instances these companies were brought into being to provide group banking in States in which branch banking was not permissible.

The theory of holding company operation is to effect greater economy of operation in the individual banks and to otherwise provide greater sources of revenue. Its proponents argue that· Economies could be effected through the centralized control by eliminating substantial overhead, installation of time saving methods, bulk purchases of supplies, and the like; Greater sources of revenue would arise out of the ability of the individual unit to handle larger loans, by passing them on to a larger bank of the group, to supply, as feeders, trust or fiduciary business to the large unit qualified to handle it, and to invest its otherwise idle funds in loans or investments held by other units; Through this production of extra profits in the individual banks, greater dividends could be paid to the holding company, which in turn could increase dividends to its shareholders.

Many of these companies were highly successful at first. As the result, during the expansion period prior to 1929, their stocks were dealt in to the extent that speculative values ran far ahead of any possible value to be based on earnings and tangible assets.

After the market crash, the continuing depression conditions produced a rapid depreciation in the market price for such stocks with very detrimental consequences. For instance, the stock of one company which had reached a peak of $240 sank as low as $6 30 per share and the stock of other holding companies suffered a similar depreciation. When it is realized that these stocks had been widely used in many instances as collateral security for obligations of individual borrowers from the various constituent banks of the group, the effect of the depreciation in the value of such stock upon the financial structure of these group banks is easily understood.[15a]

[15a] A serious question has been raised as to the effect on our economic structure if Bank Holding Companies are permitted to expand without some definite policy being established by the Federal Government. People of this country will never tolerate the banking interest of the Nation to get under the control of one, two or three great financial groups

The ownership by individuals of bank stock within the State where the bank is located, should be encouraged. This tends to place the management in the hands of those most familiar with the conditions within the State.

Accentuating the difficulties of all banks, the general, steady, and persistent withdrawal of funds continued. To meet these demands, it was necessary for the banks to sell most of their liquid assets and to rediscount heavily with the Federal Reserve Banks and borrow from the Reconstruction Finance Corporation. Some of the large banks of these groups were in need of further loans. It was evident that if one bank was forced to close its doors there would be runs on all the affiliated banks. It was also evident that if all the banks of an affiliated group were closed runs would be precipitated on the independent banks and at that time a great many banks were not in a position to withstand a run.

It is thus understandable that our banking structure, dealt such a severe blow by the 1929 storm, was not able to recover under the depression conditions following, and thus finally succumbed in 1933.

The tenseness of the situation by the close of January, 1933, had reached the point that serious consideration was being given by the authorities in more than one State to State-wide moratoria. Clearing houses in some of the major cities were either giving consideration to the adoption of clearing house certificates or taking active steps to cope with the situation through this medium.

The authorities of the Federal Government and the various States were besieged by distressed banks seeking assistance in preventing further loss to them and their depositors. In many cities throughout the country, individual State banks placed restrictions upon withdrawals and in many areas groups of banks entered into agreements whereby some restriction on withdrawals was put into effect in all the members of the group. In some cases, city authorities attempted to impose restrictions and finally, practically every State adopted some sort of temporary palliative. In most cases, this took the form of a declaration of a State-wide moratorium. The first of these banking holidays was that declared in Nevada, in November, 1932, but by February, 1933, many States were in the position where some such temporary measure was necessary; in fact, most of the States had taken such action before the end of February.

This was the situation in Michigan, for instance, on Saturday, February 11, 1933, when the banks closed in accordance with the custom at noon. Monday, February 13, was a legal holiday, and between Saturday and Monday a meeting of the

Detroit Clearing House and the Michigan State Bankers Association was called to determine whether or not the banks should attempt to open for business on Tuesday, February 14, which was the next regular banking day. As a result of that conference, a joint request was made in writing by the Michigan State Bankers Association and the Detroit Clearing House Association to the Governor of Michigan, requesting him to declare a State-wide banking holiday. In response to this request, and in view of the acute financial emergency then existing throughout the country, Governor Comstock issued a proclamation declaring a State banking holiday to last for a period of ten days from February 14. During this time, all banks, trust companies, and other financial institutions conducting a banking or trust business within the State of Michigan were forbidden to transact any banking or trust business. This holiday was extended from time to time at the urgent request of the banks, and continued until the general National Banking Holiday was proclaimed by the President of the United States on March 6, 1933.[15b] Whereas the actual background of similar banking holidays in other States varied somewhat from that of Michigan, there were many similar situations, and in all of the States the acuteness of the financial emergency practically forced some drastic action upon the civil authorities.

Although in 1932, the Federal Government had created the Reconstruction Finance Corporation for the purpose of assisting the financial institutions of the country to stave off failure, the first measure invoked by the Federal Government affecting the office of the Comptroller of the Currency was the enactment of the so-called Couzens Resolution by the Congress on February 25, 1933, by the terms of which the Comptroller, with the approval of the Secretary of the Treasury, could exercise such control over national banks as was conferred upon State officials having supervision over State banks in the States in which national banks were located.[16] The primary purpose of this regulation was to empower the Comptroller to authorize banks to curtail or restrict powers, particularly so far as deposit operations were concerned.

Naturally, many national banks found themselves in a precarious condition because of the advantages afforded competing State banks by action of the State authorities. Immedi-

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[15b] For text of President's Proclamation, see Appendix at page 96.

[16] For text of the Couzens Resolution, see Appendix at page 144.

ately after the enactment of the so-called Couzens Resolution, the Comptroller's Office was deluged with requests from national banks all over the country for authority to restrict withdrawals. It became necessary to determine the law of each State and, of course, these laws were being enacted momentarily. Information with respect to the provisions of the State laws was obtained from various sources and particularly through the courtesy of the State banking authorities A special staff of attorneys was employed by the Comptroller to review, analyze and apply those State laws to the numerous requests received by the Comptroller from national banks.

It was the concern of the Comptroller to aid the national banks under his supervision as much as possible, but his authority was limited, making it necessary for him to act in this emergency only if after a careful study of the State law he concluded that he had the power to give the authority requested by the individual national banks. It was also necessary in granting authority to the banks that precaution be taken to see that the restrictions would not conflict with preexisting provisions of the National Bank Act. For example, if the State law was such as to permit public moneys to be withdrawn from State banks without restrictions, the Comptroller could not grant similar authority to a national bank in that State because to do so would violate the illegal preference section of the National Bank Act.[17]

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[17] Title 12, U S. C, secs 109 and 194.

CHAPTER III

Means Adopted to Solve the Problem and Remedial Legislation

The so-called Couzens Resolution was the only Federal statutory emergency measure available for use during the period from its enactment to the date of the President's Proclamation. During those comparatively few days the chaotic banking conditions throughout the country reached a climax. This was the condition of the country when Franklin D. Roosevelt was inaugurated President of the United States on Saturday, March 4, 1933, and it was recognized in his inaugural address from which the following is taken:[17a]

> "I am certain that my fellow Americans expect that on my induction into the Presidency I will address them with a candor and a decision which the present situation of our Nation impels. This is preeminently the time to speak the truth, the whole truth, frankly and boldly. Nor need we shrink from honestly facing conditions in our country today. This great Nation will endure as it has endured, will revive and will prosper. So, first of all, let me assert my firm belief that the only thing we have to fear is fear itself—nameless, unreasoning, unjustified terror which paralyzes needed efforts to convert retreat into advance. In every dark hour of our national life a leadership of frankness and vigor has met with that understanding and support of the people themselves, which is essential to victory. I am convinced that you will again give that support to leadership in these critical days. * * *
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> "We do not distrust the future of essential democracy. The people of the United States have not failed. In their need they have registered a mandate that they want direct, vigorous action. They have asked for discipline

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[17a] President Roosevelt in his book *"On Our Way"* gives a very interesting picture of the inside story of the Administration's work in reopening the closed banks Likewise, see Article Number Three of *"President Roosevelt's Own Story of the New Deal,"* recently published in various newspapers throughout the Country

> and direction under leadership. They have made me the present instrument of their wishes. In the spirit of the gift I take it."

Both the banking and financial structure of the Nation being at stake, it was apparent to all that the problem was of national importance as distinguished from a problem peculiar to the respective States. Many difficulties, however, confronted the Federal officials in trying to determine what could be done under the Constitution and the Federal laws then existing. Who should do it? How could it be accomplished?

The problem was not solely a banking problem. The exports of gold and the hoarding of currency was a problem primarily for the Treasury Department, and the "flight of capital" (gold exports) had become so great that a real crisis appeared imminent in the national financial structure.

Many days and nights were spent by officials in the Office of the Secretary of the Treasury, the Federal Reserve Board and the Comptroller's Office in an attempt to evolve a plan which would remedy the critical situation. These conferences were being held even before the banking holidays were declared by any of the States but definite action could not be taken at the outset for several obvious reasons. These deliberations eventually resulted in the President's Proclamation, which was issued as his first official act at 1 A. M. on March 6, 1933, and the provisions of the Emergency Bank Act, which included the Bank Conservation Act which was passed by Congress three days later. The plan of the Proclamation was for the President to suspend all banking functions in order that the Nation's currency could be regulated and the gold supply conserved. It was necessary that the banks be regulated and controlled for the purpose of protecting them and the public from the effects of unwarranted withdrawals by panic stricken depositors.

The provisions of the Emergency Bank Act can be briefly summarized as vesting:

1. Power and authority in the President of the United States to close the banks,[18]
2. Authority in the Secretary of the Treasury to regulate the business of the banks during such emergency period as might be declared by the President, and,[19]

[18] Title 12, U S. C, sec. 95.

[19] Title 12, U. S C., sec. 95

3 Authority in the Comptroller to appoint conservators whenever he should deem it necessary in order to conserve the assets of a national bank for the benefit of its depositors and creditors, and to effect reorganizations of such banks as the conditions and circumstances warranted.[20]

There were other provisions of the Act which are extremely important but which do not fall within the above classifications, namely, the authorization of national banks to issue preferred stock [21] and the authorization of the Reconstruction Finance Corporation to purchase preferred stock of banks,[22] whenever the Secretary of the Treasury, with the approval of the President, considered it necessary to supply funds for the organization or reorganization of such banks. The Act also authorized the issuance of Federal Reserve Bank notes redeemable in lawful money of the United States.[23] These notes were to be issued to the value of 100% of Government obligations deposited as security and to the value of 90% of notes, drafts, bills of exchange and bankers' acceptances deposited as security. It enlarged the powers of the Federal Reserve Banks, enabling them to discount notes of member banks secured by collateral not previously eligible for that purpose.[24] It also authorized the Federal Reserve Banks to make advances to individuals, partnerships, and corporations on promissory notes secured by Government obligations.[25] One provision, particularly designed to cover the immediate emergency, authorized the Comptroller of the Currency to allow national banks for which conservators might be appointed to receive new deposits, which would be segregated and kept available for withdrawal without restriction.[26]

The Presidential Proclamation, of course, focused the undivided attention of everyone on the acuteness of the national situation and immediately thereafter the morale of the Nation improved.

Perhaps the best discussion of the purpose of and action taken by the Government is found in the first radio address

[20] Title 12, U. S. C., secs. 201 to 211
[21] Title 12, U. S. C., sec. 51a.
[22] Title 12, U S. C, sec. 51d
[23] Title 12, U. S C., secs 445 and 446.
[24] Title 12, U S. C., sec. 371b.
[25] Title 12, U S. C., sec. 347c
[26] Title 12, U. S. C., sec. 206.

of Franklin D. Roosevelt as President of the United States, on March 12, 1933.[27]

It was impossible at the moment the President's proclamation was issued to determine just what emergencies and needs would arise during the period of the banking holiday; in fact, it was impossible to determine the length of time the holiday period would remain in existence through necessity.

On the morning of March 6, as well as for some days previous, it was evident to all concerned that limited withdrawals must be permitted for necessities of life, payrolls, foodstuffs in transit, and the like, in order to prevent utter disaster. The only Federal official who could logically issue regulations with respect to the Nation's currency and gold supply was the Secretary of the Treasury. It was also the consensus of opinion of the Federal officials dealing with the banking situation that the Secretary of the Treasury was the logical officer to issue banking regulations during the holidays because the remedies adopted with respect to the currency and gold had a direct bearing and relationship to withdrawals from banks. This was recognized in the Emergency Banking Act of March 9. Consequently, certain regulations were issued permitting withdrawals for those purposes. As the hours and days progressed urgent requests poured into Washington from depositors, industry, labor, banks, public officials, and others, for authority to engage in certain banking functions. A very large percentage of these requests found their way by telephone, telegraph, and personal messages to the Comptroller's office. Other reports and requests went to the Federal Reserve Board and to the office of the Secretary of the Treasury.

The authorities cooperated fully in the promulgation of regulations by the Secretary's office. In doing so, it was necessary to keep in mind particularly these factors:

1. That the regulations be such as to carry out the purposes of the Bank Conservation Act and yet keep the channels of commerce open without unjustly permitting certain classes of depositors to obtain their money from banks to the detriment of the interests of other depositors who did not come within the purview of regulations which might be issued.
2. That the good will and confidence of the banking public must, so far as possible, be restored and retained.

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[27] For text of the President's Radio Address, see Appendix at pages 100–104.

3. That the elementary necessities of human life must be provided.

The pulse of the Nation had to be felt by the comparatively few officials mentioned in considering these regulations and in trying to keep within the limits of the purposes of the Bank Conservation Act. These regulations, as issued, were immediately released to the press of the Nation and were communicated to the Federal Reserve Banks by telephone and telegraph.

It would be impossible to enumerate all of the problems which arose, but by way of illustration, a few situations may be briefly described.

Every bank found among its cash items at the commencement of the holiday innumerable checks and drafts issued by or drawn on other financial institutions. If the banks holding these items failed to present them for payment in the ordinary course of business and through the regular channels, those banks might be held responsible by their respective customers for failure to take the ordinary steps to make collections On the other hand, if the items were presented and payment refused, the question arose whether the refusal was an "act of insolvency" on the part of the bank on which the items were drawn. Practically every bank in the Nation had received checks and drafts drawn on it for collection and remittance or credit. Could those banks charge the items to the accounts of the forwarders? Practically every bank had numerous sight drafts and other items in its collection department and was confronted with the question as to what should be done with such items Some of the banks had trust departments. To what extent could they function in those departments and what was their liability if they performed or failed to perform?

Pursuant to the authority vested in the President by the Bank Conservation Act of March 9, 1933, he issued the Executive Order of March 10,[28] which authorized and empowered the Secretary of the Treasury under such regulations as he might prescribe to permit any member bank of the Federal Reserve System and any other banking institution organized under the laws of the United States to perform any or all of their usual banking functions except as otherwise prohibited.

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[28] For text of the President's Executive Order of March 10, 1933, see Appendix at pages 98–100.

This Order also authorized the proper authority having immediate supervision to permit, under such regulation as such authority might prescribe, any banking institution, in such State or place, other than banks which were members of the Federal Reserve System, to perform any or all of their usual banking functions except as otherwise prohibited.

The Order further provided that all banks which were members of the Federal Reserve System (this, of course, included national banks) desiring to re-open for the performance of all usual and normal banking functions, except as otherwise prohibited, should apply for a license to the Secretary of the Treasury. Such applications were to be filed through the Federal Reserve Banks which were required to transmit them to the Secretary of the Treasury and licenses were to be issued by the several Federal Reserve Banks upon the Secretary's approval, they being designated as agents of the Secretary to receive applications and to issue licenses in his behalf and upon his instruction.[29]

In the meantime the Proclamation of March 9 had extended the banking holiday.[30]

It became vitally important that the available members of the Comptroller's staff most familiar with the condition of the national banks make an immediate survey for the purpose of ascertaining those banks which could be permitted to reopen with safety to themselves, their creditors and the general financial structure of the Nation.

Since this meant the careful consideration of 5,938 national banks throughout the United States, the magnitude of the task can be somewhat appreciated. The survey was completed by March 15, 1933, and it was found that 1,407 national banks and ten State banks located in the District of Columbia (which by operation of law are under the supervision of the Comptroller of the Currency) could not be licensed until further corrective action had been taken.

This survey was made in conjunction with officials and staff members of the office of the Secretary of the Treasury, the twelve District Federal Reserve Banks, and, of course, the District Chief National Bank Examiners as well as, where necessary, with field examiners.

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[29] For form of license, see Appendix at page 87.

[30] For text of the President's Proclamation of March 9, 1933, see Appendix at page 98.

While we are dealing at this time primarily with the national banking system as such, it should be borne in mind as indicated above that the duty of licensing all banks which were members of the Federal Reserve System devolved upon the office of the Secretary of the Treasury. The national banks were considered by the Secretary's office for licensing on the joint recommendation of the Comptroller of the Currency and the District Federal Reserve Banks, while State member banks were considered for licensing on the recommendation of the District Federal Reserve Banks. Those State banks which were not members of the Federal Reserve System were authorized to resume normal banking functions, except as otherwise prohibited under such regulations as the State supervisory authorities might prescribe. Private banks were authorized by the Secretary's regulation issued March 11, 1933, to resume their normal and usual functions except as otherwise prohibited and except that no gold coin, bullion, or gold certificates might be paid out.[31]

While, as will be seen, the necessities of the banking emergency compelled the Comptroller and his staff to concentrate on the process of reorganizing and recapitalizing the national banks, wherever possible, there also devolved upon the office the duty of salvaging for the creditors of those in liquidation and to be liquidated the ultimate possible dollar of their original deposits. Some of the causes of the emergency have their roots in such profound and uncertain economic and sociological conditions that they are not yet susceptible of treatment by remedial legislation; however, certain other immediate causes were definitely recognized and to a large extent have been remedied.

One of the immediate matters leading to the holiday being the progressive trend toward hoarding currency, attention was given to this phase by the Administration at once, for while the tendency was recognized as a result of conditions rather than a cause, nevertheless, it was a symptomatic ailment which required prompt action. Under the Emergency Bank Act of March 9, 1933, and the Gold Reserve Act of 1934, the President and the Secretary of the Treasury took action to discourage and minimize hoarding by calling in the gold and gold certificates. The far-reaching and complex effects of this step need not be discussed here. It is sufficient to point

[31] For a complete text of the regulations of the Secretary of the Treasury, see Appendix at pages 117–132.

out that it was in part directed at, and a solution for, the trend toward the hoarding of both gold and currency.

One of the paralyzing effects of hoarding is the withdrawal of currency from the channels of commerce. It was thought necessary to provide a means by which new currency could be placed in circulation and for this purpose, the Federal Reserve Banks were authorized during the emergency to issue Federal Reserve Bank notes to be secured by at least an equal amount of collateral which could consist either of direct obligations of the United States or of notes, drafts, etc, acquired by the Federal Reserve Banks under the provisions of the Federal Reserve Act.[32] Although these Federal Reserve Bank notes may no longer be issued, there remained in circulation in the latter part of 1936, approximately fifty million dollars of that form of currency. Certain other emergency provisions were made by which credit not previously provided for could be extended by Federal Reserve Banks.

Reference has been made to the results of interlocking directorates and the close association of banks with affiliates dealing in securities. It was recognized that one of the causes of the banking crisis was the fact that some banks were engaged in phases of business other than that of banking and were investing funds in speculative securities to an extent which jeopardized the depositors' money. As a remedy for this, provisions were placed in the Banking Acts of 1933 and 1935 limiting the interlocking control and interlocking business activities of member banks of the Federal Reserve System and affiliates and subjecting these affiliates to supervision.[33] Also, certain provisions were passed limiting and supervising interlocking personnel, including directorates between banks,[34] between banks and public utilities,[35] and between banks and registered holding companies.[36] Certain further restrictions also were placed on dealing in securities by member banks, in that these dealings are now made subject by law to the regulations of the Comptroller of the Currency in both national banks and State banks which are members of the Federal Reserve System.[37]

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[32] Title 12, U S. C, secs. 445 and 446

[33] Title 12, U. S. C, secs. 61 and 371c.

[34] Title 15, U. S C, sec. 19.

[35] Title 16, U. S. C, sec. 825d (b).

[36] Title 15, U. S. C., sec 79 (q) (c)

[37] Title 12, U. S. C., sec. 24.

The wisdom of regulations issued by the Comptroller of the Currency and effective as of February 15, 1936 relating to "investment securities," has been demonstrated. The objective of the regulations was to prescribe sound investment policies for national and State member banks of the Federal Reserve System which would in the future eliminate or reduce to a minimum the disasters of the past which were largely attributable to speculation in securities and the investment of funds of depositors in speculative issues. As a preliminary to the promulgation of the regulations in question, the office made a comprehensive study of the evils previously existing in investment policies of banks Similar studies were made by others. These studies indicated clearly that unsound investment policies contributed largely to the bank collapse of March 1933.

The Banking Act of 1933 prevents a bank from acting as medium or agent for non-banking corporations, firms or individuals in making loans to brokers on the security of stock, bonds, and other investments.[38]

A very unsound practice which had evolved out of competition between banks has recently been eliminated by the enactment of laws pertaining to the payment of excessive interest on deposit accounts. The Board of Governors of the Federal Reserve System has been authorized to regulate the interest which may be paid by member banks on time and savings deposits and such banks are prohibited from paying interest on demand deposits with a few exceptions.[39] Similarly, the Federal Deposit Insurance Corporation has been directed by legislation to prohibit, by regulation, the payment of interest on demand deposits with certain exceptions in insured non-member banks, and it has been authorized to regulate the rates of interest which may be paid by such non-member State banks on time and savings deposits consistent with the contractual obligations of the banks to their depositors [40]

One of the difficulties prior to the banking holiday related to the measure of control over the officers and directors of banks and the remedies available if the officers and directors persisted in continuing unsound banking practices. By virtue of the Banking Acts of 1933 and 1935, the Comptroller of the

[38] Title 12, U S C., sec. 24.
[39] Title 12, U S C, secs. 371a, b and 461.
[40] Title 12, U. S. C., sec. 264(v)(8).

Currency now has the power, after due warning, to refer to the attention of the Board of Governors of the Federal Reserve System evidence of violations of law and unsound and unsafe banking practices in national banks and the bank official who has persisted in the continuance of such practices may be removed from office.[41] Like power is conferred on the Federal Reserve Agents of the twelve District Federal Reserve Banks as to officers of State banks which are members of the Federal Reserve System.[42]

Another important change in the law is in the Banking Act of 1933 (not to be confused with the Emergency or Bank Conservation Act) providing for the elimination of the assessment or "double liability" of shareholders.[43] It was recognized that this liability unless eliminated would constitute a major obstacle in rehabilitation as few would stand ready to invest funds for capital purposes in the circumstances, particularly as in many instances banks were to be capitalized largely as a civic necessity. Further, some banks could be reorganized only through the action of many of their depositors who would use a portion of the funds to be released in the reorganization in the purchase of stock and they naturally would be hesitant at assuming this extra responsibility.

While recommending the elimination of the "double liability," the Comptroller felt that it was necessary to offset this loss of protection to creditors and as the result of his recommendation to Congress the Banking Act of 1935 contains provisions under which the surplus accounts of national banks are to be built up to an amount equal to their common capital.[44]

What may be termed the most important recent legislation designed to protect both the banks and the public is the Federal Deposit Insurance Corporation provisions of the Banking Acts of 1933 and 1935,[45] whereby the deposits of each depositor in banks insured by that corporation are insured up to $5,000.[46]

When this legislation was suggested it met with considerable opposition from some quarters. However, the people, the President and the Congress recognized that one thing above

[41] Title 12, U. S C, sec 77.
[42] Title 12, U. S. C, sec 77
[43] Title 12, U. S. C., sec 64a.
[44] Title 12, U. S. C., sec 60.
[45] Title 12, U. S. C., sec. 264.

all others required by the depositors, in the light of the disastrous series of bank failures prior to 1933, was the assurance that when they put money into a bank they could get it out again at any time and that in the event of the failure of the bank they would be protected. The principle of guaranteed deposits is not new. Our government recognized the principle when on June 25, 1910, President William Howard Taft advocated and secured the passage of the Postal Savings bill. No one denies that the full faith and credit of the United States is pledged to the return of every dollar in Postal Savings deposits The confidence of the people in such assurance is evidenced by the fact that from 1931 to 1933 Postal Savings deposits increased from approximately three hundred and fifty million dollars to over a billion dollars.

Since the permanent insurance provisions of the Act have been in operation it has met with almost universal approval. Bankers and depositors alike recognize that it has eliminated the danger of runs occasioned by hysteria such as that which caused the downfall of innumerable banks prior to and during the banking crisis of 1933.

Subsequent developments have proved conclusively that this legislation was both timely and wise. The record of suspensions of insured banks since the Federal deposit insurance fund became operative is interesting In the four-year period from January 1, 1934, when the insurance went into effect, to December 31, 1937, 127 insured banks with total deposits of approximately $36,856,000 have suspended. Nine of these were national banks with deposits of $9,736,000 and 118 were State banks with deposits of $27,120,000. Approximately 89% of the deposits in these 127 insured banks were covered by insurance, offsets, security, or preferment and over 99% of the depositors were protected in full. On June 30, 1937, date of last bank call with figures completed, there were 13,941 banks, with deposits of $48,802,185,000, insured by the Corporation Of more than 50,000,000 depositors over 98% were fully covered by insurance, security or preferment.

The percentage of insured deposits in banks ranges from 1% in one bank to better than 99% in some of the smaller institutions and it may be that this fact will be given consideration in the provisions for assessments against insured banks, the proceeds of which go to augment the fund available to meet the requirements of the Corporation to carry out the law. As the assessment feature stands under existing law,

assessments are levied on insured banks semi-annually in January and July at an annual rate of 1/12 of 1%.[47] Each semi-annual assessment is for 1/24 of 1% of average daily deposits of the insured bank, including uninvested trust funds, adjustment for uncollected items and other allowable deductions during the six months ending respectively on the preceding December 31 and June 30.[48]

At least one bank has a minimum deposit requirement considerably in excess of the maximum $5,000 limit which the Corporation insures so that only 1% of its total deposits are insured, notwithstanding it pays into the fund under the assessment procedure at the same rate as a small institution with no account on its books in excess of $5,000, where 100% of the deposits are insured. This situation has been met by the larger banks but, as stated, with increasing experience in the field of insuring bank deposits undoubtedly adequate provision will be made to adjust these inequalities and at the same time afford the Corporation resources to meet the maximum of liabilities which it might conceivably be called on to assume in the future.

The Federal Reserve System, comprised of 5,293 national and 1,064 State member banks, has 85.02% of the total deposits of all insured banks, while the State banks and mutual savings banks which are not members of the Federal Reserve System but which are insured by the Corporation, have 14.98% of the deposits.

The balance sheet of the Corporation as of December 31, 1937, (latest available) shows it to have total assets of $385,340,147, with total liabilities, exclusive of its capital structure, of $2,191,099, or a total capital structure of $383,149,048. Substantially all of this capital is invested in United States Government securities ($348,485,506) and the total capital, together with debentures which the Corporation is authorized to issue under the law in the amount of three times the amount of its capital, stands as a bulwark of protection to depositors in insured banks. The margin of protection provided in 1936 was practically the same as that in 1935, and as shown by the above figures the margin of protection has increased for the year 1937.

Experience has shown in connection with the failures of insured banks since the formation of the Corporation that

[47] Title 12, U. S. C., sec. 264(h)(1).
[48] Title 12, U. S. C., sec. 264(h)(2)

no longer does a community undergo convulsive excitement nor do depositors in the affected bank go about with blanched faces seeking to determine how they will be able to carry on their own affairs because of the bank's failure. They know that the Corporation will move in promptly and make available to them the total of their funds up to the $5,000 covered by insurance and that their business may move on and that their own financial affairs will not be materially hampered. They know that their savings will no longer be lost to them by reason of the failure of banks and they feel that in this one piece of constructive legislation the very foundation of our financial structure has been made secure.

Although depositors and bankers all over the country have enjoyed the benefits of this legislation few realize the enormous amount of work involved in framing the legislation and setting up the machinery by which the insurance provisions of the Act could be carried out. The Banking Act of 1933 prescribed that the Corporation should have three directors, the Comptroller of the Currency and two others to be appointed by the President.[49] The effective date of the insurance provisions of the Act was January 1, 1934. Prior to that time all nonmember State banks seeking to qualify for the insurance had to be examined in order to establish to the satisfaction of the Corporation that they were solvent and qualified for the benefits of the Act. The preliminary work incident to such examination could not await the selection and qualification of the two remaining directors. Therefore the program for putting into effect the provisions of the Act including the making of the preliminary examinations was developed under the supervision of the Comptroller of the Currency and was submitted by him to the President who approved it. When the other two members of the Board of Directors, Walter J. Cummings and E. G. Bennett, were appointed and qualified on September 11, 1933, the program was approved by the Board as its first official act after organization. The examinations were begun shortly thereafter.

It will be appreciated that in order to assure the success of this far-reaching reform measure it was extremely important that adequate examinations be made of all non-member State banks seeking to qualify under the provisions of the Act. Experienced national bank examiners were selected to co-

[49] Title 12, U. S. C., sec. 264(b).

operate with the State Banking Commissioners and Supervisors. Men who were familiar with the values in each State were assigned to this important task. Every man from the forces of the District Chief National Bank Examiners who could possibly be spared was utilized in this examination program.

Full cooperation was received from the State Banking authorities throughout the Nation and before midnight December 31, 1933, every State bank had been examined. As a result 6,978 nonmember commercial State banks were admitted to the insurance fund when the Corporation began business on January 1, 1934. It was an herculean task and could have only been accomplished in so short a time by the complete cooperation of the State authorities and the full use of the resources of the Examination Division of the Comptroller's Office.

CHAPTER IV

Conservation

Referring again to the provisions of the Emergency Bank Act, it should be made clear that the Comptroller's office was not technically charged with the duty of regulating national banks during the holiday period. But, from the moment a conservator was appointed for such a bank, it was no longer subject to the regulations promulgated by the Secretary of the Treasury and the burden of administering these conservatorships fell upon the Comptroller's office.

The problems of the office may be summarized as follows:

> First, *Reorganization:* This covered the disposition of the 1407 national banks and ten State banks in the District of Columbia, with impounded deposits of $1,922,698,738.[50]
>
> Second, *Recapitalization:* This covered the strengthening of the capital structure of the licensed national banks, where necessary, to provide adequate ratio of capital to depositors' funds, and protection if needed, against acceptable but somewhat slow loans in some of those banks.
>
> Third, *Liquidation:* This covered the 1070 receiverships existing as of March 15, 1933, with remaining liabilities of $599,800,000, and such other banks as it might be subsequently found necessary to liquidate through receivership.

A comparatively small staff of men was detailed to formulate plans and perfect an organization to administer the provisions of the Act, as applied to banks for which conservators would be appointed. It was seen that the work would fall into two types; i. e., administration and reorganization.

The first conservator of a national bank was appointed a few minutes after midnight on the morning of March 13, 1933, the bank being the Harriman National Bank and Trust Company of New York. It will be recalled that the Emergency

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[50] For final disposition of banks in Reorganization, see table in Appendix at page 87.

Bank Act was passed on March 9, 1933. The initial plans for the administration of the Emergency Bank Act had to be blocked out by this small staff of men in the short space of four days, in addition to performing other duties incident to the holiday and relicensing activities.

An unimportant but amusing controversy arose as to the correct pronunciation of the word "conservator." Many contended that the generally accepted meaning of the title is "one who protects and administers the affairs of an incompetent" and the word when used in that connection was pronounced with the accent on the third syllable and a long "A." The broader definition of the word, however, is "a preserver of things corporeal." Secretary of the Treasury Woodin resolved this difficulty by announcing that the word "conservator" should be pronounced with the accent on the second syllable because a conservator of a national bank was an entirely new "critter."

So far as possible, men trained in the supervision of receivers in charge of insolvent national banks were drafted from the Insolvent Division of this office and experienced field receivers, clerks and attorneys were brought to Washington as personnel of the Conservatorship Division.

The first task of this Division, after necessary quarters were acquired in an office building adjacent to the Treasury, was to appoint conservators for the unlicensed national banks. There had not been, prior to the Emergency Bank Act, an agent of the Comptroller known as conservator.

The terms "conservation" and "conservator" contemplated a conservation of both assets and good will of the bank pending a proper disposition of its affairs. It was the view of the office, concurred in by the other authorities, that such conservation, particularly of good will, could be had to the greatest degree through the appointment, where possible, of an officer or director of the bank under consideration.

Pending the selection of persons suitable to the needs in these appointments, the banks were in charge of their directors and officers subject to the regulations of the Secretary.

The necessary investigation of each person who was considered for these positions was generally made by the staff of this Division which was in almost constant communication with the District Chief National Bank Examiners for the purpose of deciding in each case the person best fitted for the appointment as conservator. Every effort was made to ap-

point an officer who would be best able to bring about or at least assist in the reorganization of the institution Other factors considered were the past records of the persons considered, their age, integrity, the likelihood of their cooperating with this office and their domination or lack of domination by adverse influences. Eleven hundred and five conservators were appointed for the unlicensed banks. Instructions were issued as quickly as possible to these conservators advising them concerning their duties.

There was no precedent in either America or England for a general banking Moratorium or for a statute comparable to the Emergency Bank Act. Thus, instructions to conservators had to be drafted without the aid of legal precedents.

In drafting regulations and instructions, the Conservatorship Division also had to bear in mind that most of the conservators were executive officers of their respective banks and could not readily adjust themselves to the transition which had taken place with respect to the status and control of their banks.

While the legal problems arising in determining rights, liabilities, duties, and responsibilities were somewhat comparable to the problems which had arisen and had been judicially determined in insolvent national banks, the Emergency Bank Act conferred upon the conservators, theoretically at least, powers which were not inherent in receivers appointed for purposes of liquidation. In other respects, conservators had less power than did receivers. It was, therefore, extremely difficult in some cases to draw the line between the functions of conservation on the one hand and liquidation on the other. For example, it is the duty of the receiver to liquidate expeditiously and economically in such a way as to bring about the greatest possible return. On the other hand, the primary duty of the conservator is not to liquidate but to conserve the assets. In some instances, however, it was found best for the conservator to liquidate immediately rather than to risk further declines in value. To a large extent, this problem found its solution in the fact that property values and security prices had reached a low point and nothing could be gained by liquidating. On the contrary, it was in most cases advantageous to hold the assets intact until it could be determined whether the bank could be reorganized or would have to be liquidated.

It was not always easy to determine what were "necessities of life" for which withdrawals should be authorized. Many amusing contentions were made in support of requests for withdrawals. In one instance an elderly gentleman of approximately eighty-seven years of age requested the conservator of a small bank in a midwestern town for permission to withdraw funds. Upon being questioned by the conservator regarding the real necessity for the funds, the old gentleman stated that he needed "tobacco money." He was told by the conservator that tobacco was not ordinarily considered a necessity of life, and in the same category as food, clothes, medicine, and fuel. The old gentleman became very indignant and proceeded in no uncertain terms to have the conservator understand that he had used tobacco practically all of his life, and that tobacco certainly was a necessity which he did not propose to try to live without. He further stated that meat and bread to some people might be considered necessities but to him such "luxuries" came after tobacco. Incidentally, he had a comparatively large deposit account, and the conservator was authorized in deference to the old gentleman's age and strong feeling in the matter to disburse a reasonable amount in order that he might have the "necessities of life," without making any particular reference to tobacco as constituting a necessity.

It was the purpose of the Comptroller of the Currency to administer the conservatorship banks in a manner to avoid giving any depositor preference and at the same time to exercise a sympathetic understanding with the needs of each particular community. It was necessary to give careful consideration to the specific requests for withdrawals and it was not possible to comply with some. For instance, on one occasion an Italian organ grinder communicated with the office by telephone to say that his monkey had died and he wanted the office to instruct his bank to release enough money from his account to cover the purchase of another monkey. When he was informed that this could not be done, he insisted that we buy his grind-organ so that he could go into some other business. Unfortunately for him, this office was not in the market for grind-organs.

Salaries for conservators and their clerical staff had to be fixed by the office. In this connection one Irish conservator wrote in stating that he lived seven miles from the bank and figured that driving the distance four times a day (he lived in

one of the smaller communities where the noon-day meal was a major function of life) cost him $15.00 per month, and he wanted that much of an increase in salary. A postscript on his letter was to the following effect: "Mr. O'Connor, do you think this is too much for one Irishman to ask of another?"

Another humorous, although slightly demoralizing incident happened in the office. One visiting banker had brought his twelve-year-old son with him. The youngster was discovered preparing to sail an airplane out of the window which he had made from the mail on one of the desks. The document was retrieved in time, much to his dismay.

It can be stated, however, that every situation was dealt with, so far as was humanly possible in the light of the information available, strictly on its merits and without regard to personal feeling or favoritism.

In many banks it was imperative that some ratable distribution be made because of the drastic needs of the community. Rules and instructions which had to be drawn up and issued to these conservators were of necessity quite involved and detailed. Many factors had to be taken into consideration. Could a depositor be refused the right to withdraw the percentage permitted to depositors generally if he was indebted to the bank on a note, was possibly subject to future stock assessment or directors' liability, or had obtained a preferential or illegal withdrawal before or during the holiday?

A very important fundamental question to be determined in connection with each bank in conservatorship was: What was its official closing date? It was important to arrive at a determination of this question for many reasons, among them being: When did the rights of creditors become fixed in general,[51] and more specifically for the purposes of terminating the liability of the transferor of bank stock,[52] of terminating the authority of the bank to convert collections into deposits,[53] of establishing the date as of which offsets should be made,[54] of determining the date when interest should cease to accrue on deposits or other interest-bearing liabilities of the bank,[55]

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[51] See *Daly Brothers v Hickman,* 61 W L R. 802; *In Re Battam,* 6 F. Supp. 376; *Pestcoe v Sixth National Bank* (Pa.) 171 A 302

[52] See *Hellawell v Ingraham,* N. Y. L. J. Dec 1936.

[53] See *Lee County Bank and Trust Company v Smith,* 161 So. 423.

[54] See *Hudson v. Thomas,* 6 F. Supp 857; *State v. Hagerstown Bank & Trust Company* (Md.) 181 A. 678; *Zimmerman v. Grendel Mills* (S. C.) 183 S. E. 162.

[55] See *Douglass v Thurston County,* 86 F. (2d) 899; *Fash v. First Natl. Bank,* 89 F. (2d) 110.

and of determining whether or not any illegal preferences in the form of withdrawals had been permitted? [56]

In order to answer these it was necessary to determine the "official closing date" of each particular bank. To fix this "official closing date" it was necessary to ascertain the exact moment when the bank actually closed and just why it closed. For example, if the bank closed or restricted withdrawals by act of its board of directors without any authority from the Comptroller, then it had definitely committed an act of insolvency. This fixed the official closing date of such a bank as of the moment such action was taken. On the other hand, if the bank closed pursuant to a Governor's proclamation or an order issued by the State banking authorities, it became necessary to ascertain to what extent such official action would be applicable to the national bank and the effective date of that action. Reports from bank officials and conservators, legislation of the various States, Governor's proclamations and orders issued by the State supervisory authorities had to be examined, analyzed, and interpreted.

It was necessary to decide whether or not depositors who had made withdrawals during the holiday under the regulations or otherwise could be required to restore the amounts so withdrawn to the extent necessary to place them on a parity with depositors who had not withdrawn funds during the moratorium. It was not the intention of the President, the Congress, or the Secretary of the Treasury to permit a privileged few to withdraw their deposits during the holiday to the prejudice of those whose needs were not so urgent as to bring them within the scope of the regulations. A general rule to this effect, however, had to be qualified with several exceptions. For example, if a County treasurer had withdrawn money for payroll purposes during the holiday from a deposit account for which security valued in excess of the amount of the account had been pledged in due course by the bank, restoration was not necessary as no actual preference resulted. The deposit would be payable in full in order to reclaim the pledged collateral; also, if a depositor owed the bank $10,000 and withdrew one-half of his $10,000 deposit, he would not be required to restore the amount of the withdrawal if he paid his indebtedness because the entire deposit account

[56] See *Smith v Baldwin*, 69 F. (2d) 390; *Hardee v. Washington Loan & Trust Company*, 91 F. (2d) 314; *Mechanics Universal Joint Company v Culhane*, 299 U S 51; *Kullman & Company v. Woolley*, 83 F (2d) 129.

would be subject to an offset against his $10,000 note. There were several other qualifications or exceptions.

Another important decision which had to be made was the extent to which a bank in conservatorship could continue to operate its trust department.

The passage of the Federal Reserve Act on December 23, 1913, giving national banks the right to engage in certain fiduciary activities had brought a new problem into national bank receivership administration. This also applied to banks in conservatorship with additional complications.

The Federal Reserve Act specifically provides for the segregation of all money or property held in any fiduciary capacity from the general assets of the bank and requires that funds deposited or held in trust by the bank awaiting investment must be carried in a separate account and not used by the bank in the conduct of its business, unless it shall first set aside in or pledge to the trust department United States bonds or other approved securities. In the event of failure, the owners of funds held in trust for investment have a lien on the bonds or securities so set apart in addition to their general claims against the assets of the bank.

It will be appreciated that these trust estates must be administered in accordance with the particular instrument of trust relating to the individual estate and generally in accordance with the organic laws of the State in which the bank is located.

Of the total number of national banks placed in charge of conservators it was found that 345 of the banks had trust departments with trust assets of an aggregate value of approximately three hundred seventeen million dollars involving over sixteen thousand fiduciary relationships and countless beneficiaries The final disposition of the affairs of the trust departments was a matter of vital importance and constituted one of the major problems facing the office of the Comptroller of the Currency during this trying period of our banking history. It was earnestly desired that trust beneficiaries might experience the minimum of hardship and inconvenience during the period of conservatorship and that the enviable reputation gained by corporate fiduciaries as a result of years of faithful, conscientious, and economical administration of trust relationships might not be jeopardized.

Theoretically, the trust department of a national bank, if operated in strict conformity with the existing regulations,

would not be subject to the vicissitudes of the bank as a whole and could continue to function in a normal and unrestricted manner in the unlicensed banks without regard to the ultimate disposition of the commercial affairs of the bank. In practice, however, it could not be presumed that such an ideal condition existed in a conservatorship bank. It, therefore, was necessary to ascertain the true condition of the trust department of each bank, together with the exact condition of each separate trust account, in order to determine the extent to which each bank could be authorized to resume normal trust operations or the nature and extent of the restrictions, which in some instances, had to be imposed in order that each trust account might receive the same fair and impartial treatment.

In the main, the office informed itself as to trust department activities from the reports of examiners but in more than one instance it was found necessary to have special audits made in order to ascertain whether the bank had contingent liabilities in connection with these several trust estates which might prove dangerous if not provided for adequately in a reorganization plan.

It was realized that some time would be required to definitely determine these matters and that trust departments should be permitted, in the interim, to continue their operations with as little restriction as the individual circumstances would permit. Conservators were given complete instructions as to the segregation of transactions occurring prior and subsequent to the closing of the bank, and the operations of trust functions on a restricted basis.

After determining the preliminary powers to be given conservators, it became necessary to decide whether these trust departments should be liquidated or their administration continued. It had long been the established policy of the Comptroller of the Currency, in connection with trust departments of national banks in receivership, to permit the receivers of such banks to continue the exercise of trust functions only so long as was necessary pending resignation of the receiver as fiduciary and the subsequent transfer of the trust property to a duly appointed and qualified fiduciary for each trust estate.

In accordance with his interpretation of the legislative intent of Congress, as expressed in the Bank Conservation Act, the Comptroller of the Currency took the position that the Conservator succeeded to the rights and duties incident to the execution of trusts, of which the bank was trustee at the time

of the appointment of the Conservator. While it may be remarked that "good will" is not ordinarily an asset in the hands of a receiver, since the continuance of the business of banking is definitely at an end and liquidation begun, the opposite might be clearly true in the case of a Conservator. A trust department and the "good will" of its customers are certainly assets of the bank in matters of reorganization or relicensing The administration of trust estates was continued in these conservatorship banks as fully as practicable, dependent upon the actual condition of the trust department.

As in the case of receivers, all conservators were bonded with sureties approved by the office, and in but few instances was the trust imposed on them through these appointments violated, making it necessary for this office to seek recourse against their sureties.

It can readily be appreciated in the light of the problems confronting the Conservatorship Division which had been built up very rapidly by recruiting available men from all over the Country, that it was necessary to adopt some means of developing a uniformity of interpretation of the various regulations and policies in answering the multitude of questions propounded by the newly-appointed conservators, the officers and directors of banks, depositors and the general public. This was achieved through a series of meetings which were held for the attorneys and general correspondents of the Conservatorship Division, at which lectures were given by the members of the staff more highly trained in the work By this concentrated educative process, all of the members of the staff were acquainted with the policies adopted, the reasons therefor, the correct legal interpretations of the various regulations, and the proper solution of the "class" questions which arose.

CHAPTER V

Reorganization

As soon as practicable after the President's Proclamation declaring the banking holiday and the enactment of the Emergency Bank Act, instructions were prepared and issued to the District Chief National Bank Examiners for examinations of all unlicensed national banks located in their districts.

Perhaps it is not realized that the purpose of regular examinations of going banks by national bank examiners is to acquaint the Comptroller of the Currency with the condition of the banks from the standpoint of solvency, liquidity, and management, and the reports are prepared from that standpoint. Detailed audits of their affairs and verifications of their loans and deposit liabilities by contact with customers would be prohibitive principally because of the element of time which would be required. Further, such procedure is not considered necessary as a general rule and if attempted would undoubtedly tend to induce excitement among the customers and might bring about the closing of a bank no matter how excellent its condition.

However, it was felt that the unlicensed banks, being already closed, should be given a more comprehensive examination in order that plans could be developed whereby they would be reopened as newly-organized or going banks with sufficient good and liquid assets to insure future successful operation as well as to meet immediate withdrawals to care for individual needs in the communities. As illustrative of the distinction here made, it is well to refer to a portion of President Roosevelt's radio address of March 12, 1933,[57] wherein he stated:

> "First of all, let me state the simple fact that when you deposit money in a bank the bank does not put the money into a safe deposit vault. It invests your money in many different forms of credit—bonds, commercial paper, mortgages and many other kinds of loans. In other words, the bank puts your money to work to keep the wheels of indus-

[57] For complete text of President's radio address, see Appendix at pages 100–104.

> try and of agriculture turning around. A comparatively small part of the money you put into the bank is kept in currency—an amount which in normal times is wholly sufficient to cover the cash needs of the average citizen. In other words, the total amount of all the currency in the country is only a small fraction of the total deposits in all of the banks."

Besides the considerations to be given liquidity, acceptability of assets, and management, it was necessary to ascertain the needs of the particular community for the facilities to be made available through the reorganization or licensing of the bank and the possibilities of its future success. It was also necessary to determine in the case of these unlicensed banks operating trust departments whether it would be desirable to provide in the reorganization plan for the continued operation of trust departments or whether the bank in question should divest itself of this function because of the lack of volume or the inability to supply experienced trust officers.

As in the case of the Conservatorship Division, it was necessary to provide space for the personnel of the Reorganization Division, which fortunately was available in the same office building immediately adjacent to the Treasury.

For some eighteen or twenty months prior to the banking holiday, there had been assigned to the Insolvent Division two or three national bank examiners for the purpose of reorganizing, where possible and desirable, banks for which receivers had been appointed. There were in Washington at this time also one or two national bank examiners who some months before had been detailed to the Reconstruction Finance Corporation for that Corporation's needs in considering applications for loans from banks. These men, together with one or two employees who were lent, so to speak, to the office by other governmental agencies formed the nucleus of the Reorganization Division. To this personnel was added national bank examiners and a few former national bank examiners, including some who were active bank officers lent by their banks to assist this office. These men were brought to Washington from all sections of the United States, and each had had considerable prior experience in the reorganization of banks while in the field service. This force was subsequently augmented by a number of assistant national bank examiners who were used in certain phases of the work as the program developed.

So far as practicable, these members of the staff considered banks located in areas of the United States with which they were most familiar for the reason that in the course of reorganization proceedings, problems arising out of banking practices peculiar to the different sections of the country could be best handled by one with a sympathetic understanding of those problems.

The statutory authority for these reorganizations and the procedure followed is found in the Bank Conservation Act of March 9, 1933, Section 207, which gives the Comptroller of the Currency the power to put into effect reorganization plans when assented to by shareholders owning two-thirds of the outstanding capital stock or depositors and other creditors owning 75% of liabilities or both, provided he is satisfied in each case that the plan of reorganization is fair and equitable as to all depositors, other creditors, and stockholders and is in the public interest.[58] The Comptroller's approval is a statutory prerequisite to every such reorganization.[59]

With all available space jammed with delegations of depositors, bank directors, attorneys and bank officers, each desiring to get his own bank opened, the situation can not be easily described.

Many problems which came under the general heading of "policy" had to be decided by those in authority. The work of the Division was largely new, being governed by a law only recently enacted, and was staggering for the available personnel. The Deputy Comptroller in charge and the Chief of the Division were sorely pressed to find time between conferences, telephone calls and passing on emergency matters, to study the many problems and establish a general policy to be followed. Many of the general policies were established gradually in dealing with individual cases as they arose Actually, the major policy as to each proposed reorganization was established by ascertaining the answer to three general questions: Was the proposed plan fair and equitable to creditors? Could the bank be reopened speedily under the provisions of the plan being proposed? Were the conditions such as to indicate that the bank could operate successfully in the future?

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58 This provision of the Statute was held constitutional in *Miller v. National Chautauqua County Bank,* 270 N. Y. S. 522.

59 The Comptroller of the Currency is justified in refusing to approve a plan which is inequitable to the depositors and creditors, *Cooper v. Woodin,* 72 F. (2d) 179.

Much of the time of the personnel of the Reorganization Division was consumed in attempting to convince the representatives of some of the closed banks, particularly the officers, directors and stockholders, that the plan of reorganization proposed by them was unacceptable in that it was unfair to creditors. Directors and principal shareholders in a considerable number of cases presented and argued for plans of reorganization which provided that the depositors, through waiving a portion of their deposits, would not only restore the bank to solvency but also restore the shareholders' investments. In those cases, it was necessary, first, to eliminate the proposed plan, and, second, to develop a feasible plan which might be quickly carried out. As was done in the Conservatorship Division, intensive training was given the newly drafted personnel through a series of lectures in which major policies were discussed and put into operation.

Notwithstanding these trying conditions, ways and means were devised to obtain completely adequate examinations and to give careful consideration to the problems. These were followed by the development of, and the giving of directions for, the completion of reorganization plans in many of these banks and a full determination of the cases where reorganization was not feasible or possible

Generally speaking, it can be said without any hesitation that by far the majority of the bankers who conferred with representatives of this office relative to the reorganization of their banks were extremely anxious to render aid and assistance in the rehabilitation program Many of them were willing to turn over their last dollar rather than see their friends and their depositors lose money in their banks

One impressive incident evidencing this feeling can be related During the several months immediately following the holiday, when the reaction against bankers was at its height, many letters were received by the Comptroller's office calling attention to the failure of a national bank in a certain community to receive a license. They all contained the most vicious attacks upon the bank's president. One day that president came with a group to Washington to confer with representatives of this office concerning the bank. One could not help but be curious to see the kind of a man who was drawing such condemnation. He was past seventy years of age, slight of stature, and mild of speech. In substance he said, "My bank is closed. I live in a good community. The people

are honest and I want my bank reopened." He then placed upon the desk a brief case and said, "In that bag is everything I own, all my securities, including my life insurance policy which I thought I might save for my wife so that she might have something when I die; she is as old as I am, but I have her consent that you can take that too. You know, to leave a good name in my community where I have lived all my life is more important to me than money." He was immediately referred to the Chief of the Reorganization Division who heard the leader of the group in his attack on the bank president. When he stood up to make his reply and the tender of his personal fortune, the old gentleman slumped suddenly to the floor without speaking a word. He was taken unconscious to the hospital where he died that night. His body was sent home the next day.

Another outstanding evidence of the feeling of responsibility of bankers to depositors, much more prevalent than may be generally appreciated, relates to a small national bank in a mid-western State. This bank was established and for many years personally owned and operated by one family. Of this family, one son with a legal education established a successful law practice in New York City. The other son remained with his father in the bank. At the death of the father, the real estate was inherited under the terms of his will by the son located in New York City, while the bank stock was left to the son who was then president of the bank.

At the time of the banking holiday, the bank was capitalized at $25,000, consisting of 250 shares with a par value of $100 per share. The banker son at that time owned 142 4/7 shares upon which the assessment liability would amount to a little more than $14,250. The New York City son owned 5 6/7 shares representing a possible statutory assessment liability of slightly less than $600. The deposit liability of the bank amounted to about $66,000 and the assets, as appraised in conservatorship, indicated a value sufficient to pay about 66% of the deposit liabilities. This estimate, however, did not include any value to be assigned to the stockholders' statutory liability.

In order to prevent loss to the creditors, all of whom were life long neighbors and friends, the New York City brother purchased for cash all outstanding claims after the receiver had paid a small initial dividend. In this purchase, this office is certain that he paid the full principal amount of the

claims. After having acquired all claims, the receiver's certificates were delivered to the receiver for cancellation. Deducting the full appraised value of the assets, this procedure cost the New York City brother approximately $25,000 which is to be compared with slightly under $600 the receiver could have collected from him through legal enforcement of the statutory assessment liability. Obviously, the stock assessment liability of the brother whose principal assets consisted of the stock of the bank would have been substantially worthless. Of course, part of the motive of this plan might have been to save the brother from having this large assessment levied against him as some recompense for the division of property made by the father but the evidence indicates that the real motive was to protect the depositors and creditors of the bank.

There were three major methods or plans of reorganization available for consideration in connection with the unlicensed national banks. Such plans had been evolved through the prior experience in the reorganization of banks for which receivers had been appointed in past years. These plans were commonly known as "capital correction plans," "creditor waiver plans," and "Spokane sale plans." All completed reorganizations were perfected on some one of those plans. Variations as to detail were used to meet particular circumstances.

Before discussing these plans in detail, it may be well to state that these unlicensed banks are referred to as "reorganized" in every instance where, after proper steps had been taken, the bank was licensed under its old charter or a newly-organized bank succeeded it. It is also proper to call attention to the fact that both the Examining and Organization Divisions had to function in connection with the investigation incident to the charter where new banks were to be utilized.

The "capital correction plan" was utilized only in those instances where the losses or unacceptable assets to be eliminated were not in excess of the total of the capital, surplus and undivided profits of the bank, in other words, where only the capital structure was impaired. Reorganizations of this type merely meant the elimination of the losses and unacceptable assets through a charge against the capital accounts and the restoration of capital through contributions by stockholders or others interested in the reorganization of the bank. In many instances, the aid of the Reconstruction Finance Cor-

poration was utilized through the medium of the purchase of preferred stock which the national banks were now permitted to issue and the Reconstruction Finance Corporation permitted to purchase under the provisions of the Bank Conservation Act.

In those cases where rehabilitation was perfected by the shareholders of record before suspension, the eliminated assets were held by the bank as charged-off assets and any collections therefrom were to be credited to the profit account of the particular bank. In the other instances where new common shareholders participated in the rehabilitation, the eliminated assets were transferred to trustees to be liquidated by them for the benefit of the old stockholders. This latter type of "capital correction plan" was made operative by Section 207 of the Bank Conservation Act,[60] which provides that when shareholders owning two-thirds of the outstanding stock assent to the plan, it becomes binding on all shareholders. Of the 1,417 unlicensed banks, 292 were reorganized in this manner, of which 244 were completed during the remainder of the month of March, 1933. That phase of the program was, relatively speaking, quickly completed.

The "creditor waiver" type of reorganization had been used prior to the banking holiday in a number of cases but before the passage of the Bank Conservation Act such reorganizations were exceedingly difficult for the reason that there was no provision of law by which non-assenting creditors could be required to abide by the terms of the reorganization. As a general rule it had been the policy of the office to approve reorganizations of this type only when creditors owning in excess of 90% in amount of the bank's liabilities assented to the plan. It was, of course, necessary to pay in full non-assenting creditors asserting their claims. After the enactment of the Bank Conservation Act it was no longer necessary to pay non-assenting creditors in full, provided that shareholders owning two-thirds of the outstanding shares of stock and creditors owning 75% in amount of the liabilities of the bank assented to the plan.

This type of reorganization was employed in a number of cases where it appeared that the appraised value of the assets or resources of the bank was less than the liabilities of the institution, exclusive of its capital structure. It was necessary, therefore, that a new capital structure be supplied and

[60] Title 12, U. S. C., sec. 207.

provision made for the elimination of a portion of the liabilities. To accomplish this, the general creditors of the bank executed waivers of a percentage of their deposits for and in consideration of the transfer of the undesirable assets to trustees to be liquidated for the benefit (1) of those executing the waiver agreements, as well as those bound thereby and (2) for the benefit of the old shareholders. The book or carrying value of the assets so transferred to the trustees of the waiving depositors is equal to the aggregate amount of the deposits waived, plus the old capital structure of the bank

In some instances the capital structure was restored by the old shareholders, in others it was restored by some old shareholders and some new. In many instances, the new shareholders consisted of general creditors who utilized a portion of the funds which would be released to them through the reorganization for the purpose of purchasing the stock for which they were providing In other cases, it was considered desirable to organize an entirely new bank rather than attempt to rehabilitate the bank under its old charter. The Reconstruction Finance Corporation assisted in the capitalization of these banks by purchasing preferred stock.

Where the proceeds of creditors' waivers were utilized for reorganization purposes, the eliminated assets were transferred to three trustees selected by the creditors who accepted such eliminated assets under the provisions of a trust indenture approved by this office. The terms of these indentures provided that the assets were to be held and liquidated by such trustees, first, for the benefit of the waiving creditors and, second, for the benefit of the shareholders of record as of the date of suspension. The trustees served without salary and were not permitted to borrow money upon the security of the trusteed assets. Inasmuch as the general effect of this procedure was the purchase from the bank by the creditors of a given amount of unsatisfactory assets, it followed that neither the trustees nor the assets so eliminated remained in any way under the supervision of the Comptroller of the Currency or the reorganized bank. The trustees were bound solely by the terms of the trust indenture subject to the laws of the State in which the bank was located.

In this method of reorganization, the Reconstruction Finance Corporation played an important part. Where a bank had a substantial amount of otherwise undesirable but sound assets, a loan was negotiated from the Reconstruction Finance

Corporation and those assets pledged as security. The proceeds of this loan were used in the reorganization program and when the unacceptable assets were transferred to the trustees, the transfer was made subject to the lien of the Reconstruction Finance Corporation. In some cases, it was the duty of the trustees to retire the loan from the proceeds of liquidation before any distribution could be made to the waiving creditors. Due to the limited time in which to appraise the assets classed as acceptable for retention, the new or reorganized bank was in every instance given the right to substitute assets which had been retained for any assets which were transferred to the trustees for the waiving creditors, subject, of course, to the prior right of the Reconstruction Finance Corporation where loans had been obtained from this source. This right of substitution became effective after completion of the payment of the loan to the Reconstruction Finance Corporation and extended for periods usually ranging from three to six months.

In every case of reorganization under this "creditor waiver" plan, the old bank was restored to solvency after the application of the creditors' waiver and either continued to operate under its old charter or a new bank which had been organized in the meantime purchased from the old bank all of its remaining assets and assumed the unwaived portion of its liabilities.

In view of the fact that in this type of reorganization, the bank was restored to solvency through the action of its creditors, the so-called "double liability" could not be assessed by the Comptroller of the Currency against the shareholders since under the law such assessment could be levied only in the case of insolvency.[61] Because the benefit of the stock assessment was lost to the creditors in this type of reorganization, great care was exercised in the approval of such plans to the end that so far as possible the estimated value of the stock assessment would be made available in the recapitalization program participated in by the old shareholders. This office made it a rule, to which only four exceptions were made, that no "waiver" type of reorganization would be approved where the creditors were required to waive more than 50% of the amounts due them by the banks. Of the 1,417 banks, 565 were reorganized under this "waiver" plan.

[61] Title 12, U. S C, secs 63 and 64.

The third type of reorganization, commonly known as the "Spokane sale," was frequently utilized, particularly in instances where the volume of acceptable assets would provide less than 50% in immediate returns to creditors where it was felt that existing banking facilities were adequate for the community needs or where the value of the stock assessment to the creditors was considered to be worth more than the shareholders had indicated their willingness or ability to provide in cash. There were other considerations for using this type of reorganization in some instances but these constitute the major reasons. This plan also had been used prior to the banking holiday. It was conceived by this office and used in connection with the Fourth National Bank of Macon, Georgia, which suspended on November 26, 1928. It was used also very shortly thereafter when the Exchange National Bank of Spokane, Washington, failed on January 18, 1929, and due perhaps to wider publicity in the latter instance, it acquired the name "Spokane sale" plan.

Essentially the plan consists of the sale of desirable assets in bulk at face or book value with accumulated interest to the date of sale in the case of notes, market value in the case of bonds and securities, and appraised value in the case of real estate and furniture and fixtures. Sales were made after the approval by the Comptroller of the Currency and a court of competent jurisdiction to an existing bank or a bank newly-organized for that purpose. The proceeds of the sale are thus immediately available for dividends to creditors of the suspended bank. While 21 sales of this type were made to existing banks, 236 were made to newly-organized banks. Although the sale feature cannot be classified strictly as a reorganization, the actual operation of the plan provided immediate substantial relief to creditors and in most instances involved the organization of a new bank, so that the whole scheme is considered a reorganization plan.

In almost every instance under this form of reorganization the Reconstruction Finance Corporation assisted in the capitalization program and a loan was obtained by the conservator prior to the completion of the reorganization The proceeds of this loan were used, together with the proceeds of the bulk sale, to make the initial dividend release. In some of these reorganizations substantial creditors used a portion of the funds so released to pay for stock for which they subscribed in the newly-organized bank. After the completion of these

sales and the distribution of the dividend thus made possible a Receiver was appointed in each case for the old bank for the purpose of collecting the stock assessment and the assets not included in the sale under the supervision of the Comptroller.

In this type of reorganization also the right of substitution was given to the purchasing bank for substantially the same reasons as in the case of the waiver plan reorganizations. Of the 1,417 unlicensed national banks, 257 were reorganized under "Spokane sale" plans.

There was a group of these unlicensed banks found to be insusceptible of reorganization for various reasons. Many of these were examined several times in an effort to exhaust all reorganization possibilities before receivers were finally appointed. Of the 1,417 unlicensed banks, 290 fell into this category and it was necessary for the Comptroller of the Currency to appoint receivers to liquidate the institutions.

There was a small group of the 1,417 unlicensed banks, thirteen in number, which were disposed of through voluntary liquidation proceedings. The assets were thought to be sufficient in value in each case to assure payment to creditors in full but because of limited opportunity for success their shareholders preferred to pay the creditors and cease doing business rather than attempt reorganization and a continuance of the business. It subsequently developed, however, that receivers had to be appointed for nine of these [62]

The management and directorate was in every case and in each type of reorganization made a matter of prime consideration and the old bank was relicensed or the new bank authorized by the Comptroller and licensed by the Secretary of the Treasury only after management had been obtained satisfactory to his office, the Comptroller of the Currency, the Federal Reserve Authorities and, in those instances where the Reconstruction Finance Corporation was investing in the capital, to that Corporation. Many reorganizations were delayed unduly by reason of the fact that former officers and directors attempted to project themselves into the reorganized institution over the objections of one or more of the authorities whose duty it was to approve the management. In the discharge of this function each agency made its own investigation and this office utilized the National Bank Examiners fully for this purpose.

[62] For disposition of these non-licensed banks, see table in Appendix at page 87.

In the beginning, it was the general impression that as soon as a fair and equitable plan of reorganization could be developed and approved for each conservatorship bank, the work of the Division would be practically completed. For a time, all efforts were bent in that direction and little time was given to the banks after plans had been approved. Re-openings of any material number were slow and it was soon learned that we not only had to develop a plan but must also keep in close touch by letter, telegraph and telephone with the conservator and a depositors' committee to get the approved plan completed. It was necessary in many cases to indicate the withdrawal of the approved plan and the immediate appointment of a receiver to get the conservator and the various committees to actually complete the various steps of the reorganization plan, in fact this was actually done in a few cases. By comparison the work necessary to get the approved plan of reorganization completed and a bank reopened was much more difficult than that necessary to develop a plan of reorganization for the representatives of the various banks.

In most cases the officers and directors, the creditors and the public cooperated enthusiastically with the Comptroller's office and in a number of outstanding cases relief was brought to the creditors of closed banks in an amazingly short period of time, primarily as a result of the unselfish efforts and contributions of those formerly interested in the bank. The situation in Detroit might be cited as one of those cases. Within less than one month after the banking holiday, the National Bank of Detroit was organized and open for business with a paid-in capital of twenty-five million dollars, one-half of which was subscribed by the Reconstruction Finance Corporation in preferred stock. The opening of this new bank provided much needed banking facilities for the city and afforded substantial relief to the creditors of the two national banks of that city, inasmuch as through the purchase by the new bank of certain assets from the conservators of the two closed banks on "Spokane sale" contracts the creditors received dividends totaling approximately one hundred and thirty-five million dollars within one month after the new bank had opened for business. Subsequently, the Manufacturers National Bank of Detroit was organized and as a part of its program similarly purchased a large part of the assets of the Highland Park State Bank and the Dearborn State Bank, the proceeds of which went to relieve the depositors of those two institutions.

It may be of interest here to recall a very outstanding development which occurred early in the history of the two closed national banks in Detroit and shortly after completion of their Spokane plans. These two banks had more than 800,000 depositors, a very large proportion of which were in the small group and on whom the blow fell heavily Recognizing that suffering and privation were imminent, a relatively small group of public-minded citizens with large deposits undertook a plan to pay in full the amounts due the small creditors of the Guardian National Bank of Commerce. A trusteeship was set up with the consent of the Comptroller and to this trustee the larger depositors voluntarily assigned a portion of the dividend the receiver was prepared to pay.

The fund created in this manner (almost four million dollars) was used by the trustee to purchase at face value the remainder due on all receiver's certificates issued for $1,000 or less. The certificates so acquired were assigned to the trustee who received future dividends and distributed the money to the group which had made the pay-off possible.

This plan in no wise reduced the liabilities of the bank but it did operate to pay in full those who otherwise would have suffered and placed the burden on those who by their voluntary action were willing to assume it.

A similar plan for the First National Bank-Detroit was worked out by a group of the large depositors in that bank, but due to the enormous volume of small accounts, the pay-off was limited in that instance to $300.00 or less; almost seven million dollars was thus made available for creditors in this bank.

The successful completion of these two movements enabled approximately 400,000 depositors to receive their funds in full, and represents one of the most outstanding public-spirited actions coming before this office during the several years of the emergency. This action received wide publicity and doubtless may have been the means of bringing to light a very strange story.

One day in the latter part of 1935, two elderly women obviously sisters, called at the office of the District Chief National Bank Examiner in New York City. They were both well along in years and dressed neatly in dark material somewhat the worse for long and hard wear. They opened the conference with the statement, "We are very poor people; we hardly have enough to eat; we can't pay the rent; look

how our clothes are worn; we want you to help us and we have some papers for you to see."

The cord that bound the package wrapped in newspapers was untied and there was submitted a number of letters and two bank pass books. The books, brown in color, were much frayed and deteriorated from age. Both had been issued by the State Savings Bank of Detroit, Michigan, one in the name of each sister. On the first page of one book was a single deposit entry of $390.76 under date of January 5, 1898, and in the other, an entry of $568 11 under date of December 31, 1898. These entries were in longhand but so dimmed that the writing was barely legible. A life story was thereupon unfolded.

They told of leaving New York, locating in Detroit, and of opening and operating a retail shop for some time before this money was deposited in the bank. Later, the business proving unprofitable, the shop was closed and they returned to New York. No effort was ever made by them to contact the bank and no credits for interest were ever entered in either pass book during the 37 years that had elapsed after the funds were deposited. The books and balances perhaps would have remained undisturbed in their respective hiding places to this day had not the dire need of funds for their very existence forced from them what might have been a mutual confession.

Seeking the advice of one who could write in English a letter was addressed to the State Savings Bank. A reply was soon received from the Superintendent of Banks for the State of Michigan. To their surprise and horror they learned that this bank had long since been closed and its assets absorbed by the Peoples Wayne County Bank. This institution had likewise been taken over by the First National Bank-Detroit, that bank having been placed in receivership on May 11, 1933. From subsequent correspondence they learned that apparently no record of their balance could be found. Not long thereafter they received a letter from an attorney in Detroit to the effect that he would handle their claims for a fee of 50% of all moneys recovered.

Fortunately for them their friend advised them to contact the District Chief National Bank Examiner. He promptly communicated with this office which in turn requested the receiver of the First National Bank-Detroit to make an investigation of the matter. The receiver, using the numbers of the pass books, finally located the accounts in the old records of

the State Savings Bank. Subsequent to the absorption of that bank by the Peoples Wayne County Bank the accounts disappeared as record liabilities After several months of diligent and tireless effort on the part of the receiver and his staff, in checking the many withdrawals from thousands of accounts, it was discovered that the balance of these two accounts had been misappropriated by a junior officer of the Peoples Wayne County Bank for his personal use. The customary report covering such irregularities was filed with the United States District Attorney on September 17, 1936, for prosecution and the amount of the defalcation was recovered from the bonding company under a fidelity bond.

By reason of the terms of the contract of sale between the Peoples Wayne County Bank and the First National Bank-Detroit the latter was liable for undisclosed liabilities of this nature. The receiver, therefore, calculated the interest on both these accounts, compounded in accordance with the rules and regulations of each bank over the period, to the date the First National Bank-Detroit closed and forwarded to the ladies blanks for the purpose of executing proofs of claims. Accumulated interest on one account increased the balance from $390.76 to $1,112.45, while the other was increased from $581.11 to $1,618.23. Each sister, before executing the proof of claim, insisted upon being supplied with an itemized record of interest credits covering each balance, in order that they might have the calculations verified by their friend.

It is necessary to obtain a release of pass books or other evidence in support of claims and the release of the books in this instance was finally obtained by the District Chief National Bank Examiner after long and patient explanations. He gave them a typewritten receipt for the pass books and when they asked what the writing in longhand was at the bottom, he explained that it was his signature.

On November 10, 1936, the Chief Examiner received a letter from the receiver inclosing three checks payable to each of the sisters aggregating $778.71 and $1,132.75 respectively, representing their pro rata share of three dividends totaling 75% which had to that date been paid to general creditors from liquidation. When these checks were delivered to the sisters they were overwhelmed with joy. Their expressions of praise over the consideration and attention they had received and the tears in their eyes, were potent confirmation of their statements that he, the members of the staff of this

office and the receiver were being and would be remembered in their prayers every night of their lives.

It may be of interest to briefly survey the causes of failure of these 1,417 banks. According to the available records they fell largely into three groups or classifications:

1. *Those whose failure was due to general economic conditions* To this group may be assigned all banks which failed to obtain licenses as a result of heavy losses due to depreciation of bonds and other assets where no bad faith appeared to have been exercised by the bank officials and those banks which suffered heavy losses due to the hysteria on the part of the depositors and their lack of confidence in the stability of the bank in which they had deposited their funds. In this group of cases, the hysteria on the part of the depositors did not result from any exercise of bad faith or bad management on the part of the bank officials. Included in this group also are those banks whose volume of business was insufficient to justify the hope that if rehabilitated they could be profitably operated.

2. *Those banks whose failure was due to weak management.* To this group are assigned those banks whose failure to obtain licenses was clearly a result of incompetent or inadequate management but where the integrity of the officers was not subject to question.

3. *Those banks which failed because of mismanagement.* To this group are assigned those banks which failed to obtain licenses due directly or indirectly to negligence, gross mismanagement or criminal violations on the part of directors, officers, or employees.

It will be appreciated that the dividing line between these classifications is more or less obscure but on the basis of this somewhat rough classification, the survey shows that six hundred and forty-two national banks closed as a result of economic conditions and five hundred and seventy closed due largely to mediocre or incompetent management, with two hundred and five closings resulting from mismanagement. If we divide these 1,417 banks into two groups, i. e., those closed due to economic conditions and those which failed because of management, the percentage is approximately, economic conditions, 45%, and management, 55%. This serves to emphasize the necessity for extreme care in approving officers and directors for the management of banks to which refer-

ence has been made and justifies provision for removal of incompetent management under existing law.[63]

The last of these 1,417 unlicensed banks under the supervision of the office was disposed of on February 5, 1935, so far as the Reorganization Division was concerned—approximately two years after the holiday.

The summary of the accomplished task, in the words of the Chief of the Division, is:

> "When one stops to think of the tremendous burden thrown on the office when the Moratorium was declared—selecting banks to be licensed, assisting in the framing of the Bank Conservation Act, appointing conservators, examining closed banks for reorganization purposes, organizing the Conservatorship Division and the Reorganization Division, analyzing hundreds of thousands of individual problems and issuing instructions accordingly, interviewing thousands of delegations, each believing their individual problems to be the most important, developing and pushing to completion reorganization plans, it is amazing how well such an assignment was discharged under the tremendous pressure."

It is an interesting fact that in two States no national banks failed to receive licenses to reopen following the banking holiday. Those States are Rhode Island and Wyoming. Arizona and Nevada followed with one bank each which failed to receive a license, Delaware and Utah with two each, Montana and South Carolina with five, Mississippi, New Mexico, South Dakota with six, Connecticut with seven, Florida and Oregon with eight each, Idaho with nine and Georgia and Louisiana with ten each. States having the largest number of national banks failing to receive licenses were Pennsylvania with 182, Illinois with 132, and New York with 108. These figures are not particularly significant for the reason that in the South and Middle West, for instance, a large number of banks had suspended in the eight or ten years prior to the banking holiday. Further, the greater concentration of banks was in the States showing the larger numbers which failed to obtain licenses.

This office has maintained a statistical record of subsequent liquidation of these banks, figures with respect to those reorganized by creditors' waiver being furnished voluntarily

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[63] For table showing causes of national bank failures from April 14, 1865, to October 31, 1936, see Appendix at page 90.

by the liquidating trustees in each instance. This data is compiled quarterly and shows that the percentage of impounded general deposits remaining unpaid as of September 30, 1937, is 18.72%. Of these 1,417 unlicensed banks, 661 had paid creditors in full through September 30, 1937 (latest available figures), 448 banks paying 100% at the time of reorganization and the remaining 213 through dividends subsequent to reorganization.[64]

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[64] See table in Appendix at page 90

CHAPTER VI

Recapitalization

Early in the reconstruction period this office adopted the view and recommended that all licensed national banks either suspend or reduce dividends to shareholders until the future could be made more secure.

The part the government played through the use of the Reconstruction Finance Corporation in the rehabilitation program not only with respect to national banks but with respect to the banking structure as a whole must be given consideration. The attitude of the incoming Administration with respect to the situation and the extreme desire of the President to solve the problem was rather clearly illustrated in his quick appreciation of the possibilities for service to the country through the utilization of the Reconstruction Finance Corporation.

It may be stated now that it would have been very difficult to reorganize most of the 1,417 unlicensed banks which were reorganized without the cooperation and financial assistance of the Reconstruction Finance Corporation. Further, the recapitalization program could not have been completed without its aid. By this it is not to be understood there was any lack of wholehearted cooperation and assistance from the other agencies of the Government but none of them was so constituted legally as to be able to provide the funds necessary for the completion of the program.

Many, for instance, do not understand that the twelve District Federal Reserve Banks of the Federal Reserve System, while under the control and supervision of the Board of Governors which is in turn appointed by the President subject to confirmation by the Senate, is actually owned outright by its member banks. Not one dollar of the capital is owned by the Federal Government. Under the law the Federal Reserve Banks are required to handle certain fiscal functions for the Federal Government and under given circumstances a part of the earnings of the System are paid into the general receipts of the Treasury but there was no provision in

the law by which the financial resources of the District Federal Reserve Banks could be utilized either for furnishing necessary funds for capital investment or for financing loans to receivers or liquidating agents for the purpose of relieving distressed depositors.

While it is true that in some instances reorganizations were perfected through the purchase of preferred stock by local people, in the main preferred stock funds were supplied by the Reconstruction Finance Corporation The records of this office indicate that as of December 31, 1937, there had been issued in connection with 522 of the 1,417 banks which were relicensed or reorganized a total of $68,069,250 in preferred stock; $19,467,850 was purchased by local interests and $48,601,400 was purchased by the Reconstruction Finance Corporation.

Prior to the Banking Holiday the necessity for providing some method of strengthening the capital structure of national banks was recognized. A steady decline in the value of assets owned by the banks was reflected in a decrease in the capital protection afforded depositors by the banks. It was known at that time that it would be impossible to sell to local people any material amount of new common capital stock in national banks principally because of the fact that the stock then carried the so-called "double liability." The feasibility of allowing national banks to issue a separate and distinct class of stock that would be non-assessable and that would have cumulative dividend features was given consideration. Consequently Sections 301 [65] and 302 [66] of the Act of March 9, 1933, provided in effect that a national bank might amend its articles of association for the purpose of providing for the issuance of preferred stock in such manner and under such conditions as might be approved by the Comptroller of the Currency. Section 304 [67] of the Act of March 9, 1933, provided the authority by which the Reconstruction Finance Corporation could become the owner of preferred stock issued by national banking associations.

The volume of additional work incident to the rehabilitation of the capital structure of national banking associations, as made possible by those Acts, necessitated the establishment of a separate section in the Bureau of the Comptroller of the

[65] Title 12, U S. C, sec 51a
[66] Title 12, U S C, sec 51b
[67] Title 12, U S C, sec. 51d

Currency and the employment of additional personnel. The duties incumbent upon the Bureau consisted of the preparation of forms of amendments to the articles of association to be adopted by national banks and in aiding the establishment of policies relative to the issuance of preferred stock. In addition, it was the duty of the Bureau to determine the amount of preferred stock a given national bank should issue and to supervise the details incident to the actual issuance of the new class of stock in order to insure the validity of such issue. It was also necessary, in many instances, to supervise reductions in common capital in national banks in order that depleted surplus and undivided profits accounts might be restored. This was done with the purpose in mind that as preferred stock of the banks was retired out of earnings, the common capital, in cases where reductions had been made, would again be replaced. In all these functions there was close coordination with the Reconstruction Finance Corporation.

The following figures illustrate the magnitude of the program of strengthening the capital structure of national banks and reflect the activity in that regard from the time of the banking holiday to and including December 31, 1937. Two thousand two hundred sixty-six national banks issued preferred stock of an aggregate par value totaling $564,751,550. Of that sum $499,358,944 was purchased by the government and $65,392,606 was purchased by local persons. As mentioned heretofore, the common capital of national banking associations during the same period was reduced in the sum of $284,630,759. It is interesting to note that up to December 31, 1937, of the total preferred stock issued as stated above, the sum of $270,783,396 has been retired. Four hundred twenty-nine banks have retired in full the preferred stock issued and 1,277 banks have partially retired preferred stock issued. In conjunction with such retirements the common capital of the national banks has been increased in the sum of $82,142,776. The largest amounts of preferred stock issued by national banks by States were issued by banks in New York, Illinois, Ohio, Pennsylvania, and Texas, in the order named.[68]

That portion of the Emergency Banking Act which authorized the government through the Reconstruction Finance Corporation to purchase preferred stock in national banking

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[68] See table in Appendix at pages 92, 93.

associations[69] states, in effect, that the Secretary of the Treasury may, with the approval of the President, request the Reconstruction Finance Corporation to subscribe for preferred stock in such association and that the Reconstruction Finance Corporation may comply with such request. An individual request for each bank that issued preferred stock was made by the Secretary of the Treasury. In addition both Secretaries Woodin and Morgenthau and members of their staff rendered invaluable service to the banks and to the Comptroller of the Currency in the matter of deciding the amount of individual commitments and in arranging for the purchases Frequent meetings attended by the Secretary of the Treasury, the Chairman of the Board of the Reconstruction Finance Corporation, and the Comptroller of the Currency, or their representatives, were held for the purpose of determining and deciding matters of policy relating to this phase of the program and the work in connection therewith necessitated daily contacts by the said officials and their representatives.

The matter of releasing to the public the money impounded in the closed banks was resting heavily on the heart of the President and the other high officials of the administration and as a result of conferences relating to the matter, the President, on October 15, 1933, appointed "The Deposits Liquidating Board" consisting of the following:

Chairman C. B. Merriam, Director of the Reconstruction Finance Corporation;

Jesse H. Jones, Chairman of the Reconstruction Finance Corporation;

Dean G Acheson, Under Secretary of the Treasury;

J. F. T. O'Connor, Comptroller of the Currency;

Walter J. Cummings, Chairman of the Federal Deposit Insurance Corporation;

Lewis Douglas, Director of the Budget.

This committee promptly began after-hour sessions, convening at 5:00 p. m. each working day, in offices provided for the purpose in the Reconstruction Finance Corporation building, devising ways and means and actively putting into effect the program to release deposits in the form of receivers' dividends, the money for which would be made available by loans

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[69] Title 12, U. S. C., sec. 51d.

to the receivers from the Government through its agency the Reconstruction Finance Corporation.

It is not possible to readily allocate to the group of 1,417 unlicensed national and District of Columbia banks loans of this type, the proceeds of which were of immediate assistance in the reorganization program. As to the program of the Government as a whole in rendering assistance to the entire banking structure of the country, both State and national banks, the record shows that through December 31, 1937, the Government had in this manner completed capital investments in more than 6,000 banks in an amount in excess of $1,000,000,000, of which approximately one-half has since been repaid. Interest and dividend payments are being met on approximately all of these outstanding capital investments and it is not anticipated that the Government will suffer any loss on bank capital investments as a whole. The record further indicates that the Government had loaned to some 5,000 banks approximately $1,350,000,000, of which 90 percent has been repaid, and that approximately 5,000 loans aggregating $1,275,000,000 in round numbers had been made to provide for dividends to depositors in over 2,700 closed banks. More than 90 percent of these amounts has also been repaid. The largest single loan made to a receiver for dividend purposes was the one of $84,300,000 to the receiver of the First National Bank-Detroit.

President Roosevelt stated to the American Bankers Association in October, 1934:

> "I find almost general agreement among bankers that these agencies must continue until such time as the banks and other private credit agencies are themselves able and ready to take over these lending functions; and when that time comes, I shall be only too glad to curtail the activities of these public agencies in proportion to the taking up of the slack, by privately owned agencies."

Carrying out the express direction of the President to get the government out of business some of the government loans have been taken over by going banks. As of January 17, 1938, going banks, either State or national, had made adequately secured loans to 101 insolvent national banks in a total amount of $65,629,000. All but $4,860,000 has been repaid and this balance is spread over 35 receiverships. To exemplify these transactions, when the First National Bank-Detroit loan from the Reconstruction Finance Corporation was reduced to a

balance of $35,800,000, it was taken over by the Manufacturers National Bank of that City at a 2½ percent as against a 4 percent interest rate paid to the Government. This difference of 1½ percent in the rate of interest represented a saving of $1,600 a day or $600,000 a year to the depositors of the closed First National Bank. In a little over six months $12,550,000, with interest, was paid on this loan and the balance has since been repaid in full.

CHAPTER VII

Liquidation

The records of this office show that since 1865, 17,763 banks of all types have suspended throughout the United States. Numerically, these suspensions after 1930, including suspensions allocable to the banking holiday for the year 1933, being 9,164 in number, reached approximately 52% of the all time total number of suspensions. Deposits impounded in these suspensions for the four-year period constituted 72.76% of the all time total.

To obtain a perspective of the work of the Comptroller's office so far as it pertains to the recent liquidation of insolvent national banks, it might be well to call your attention to the fact that of all national banks which have become insolvent since the first failure of a national bank (The First National Bank of Attica, New York—April 14, 1865), 1,912 or 61% of the failures occurred during the years subsequent to 1929. In those 1,912 national banks which failed subsequent to 1929, the deposits of $2,295,688,242, amounting in percentage to 82.19% of the all time total, represented funds of individual citizens in practically every State of the Union.[70]

In March, 1933, when the work in connection with the banking holiday avalanched upon the Comptroller's office, there were in existence over 1,000 national banks in process of liquidation. To this number should also be added additional receiverships from those unlicensed banks which were not susceptible of reorganization. Furthermore, in all of those unlicensed banks reorganized under the so-called "Spokane sale" plan, the assets remaining in the old banks were to be liquidated by receivers appointed by the Comptroller. The creditors of all the insolvent national banks which have been in process of liquidation since the banking holiday have been paid approximately 72% of their deposits and there were as of December 31, 1937, 781 receiverships which had not been completely liquidated. Future dividends which will be paid

[70] See table in Appendix at pages 94, 95.

to the creditors of these remaining receiverships will materially increase the percentage given.

The Insolvent Division is under the immediate supervision of a Chief Supervising Receiver who is also the First Deputy Comptroller. He is assisted by a comparatively small number of highly specialized staff members who issue instructions and grant authority to the receivers of the various insolvent national banks relating to the administration of the receivership and the liquidation of its assets.

As was true in establishing the Conservatorship and Reorganization Divisions it was necessary to draft additional personnel for the Insolvent Division, particularly as a large part of the Conservatorship and some of the Reorganization personnel had been taken from the Insolvent Division.

Under the provisions of the National Bank Act a receiver of a national bank cannot sell an asset or accept a compromise settlement of an obligation due the bank without the approval of the Comptroller and also the approval of a court of competent jurisdiction.[71] Therefore, in every instance where a receiver decides that it is advisable to sell an asset or compromise the indebtedness of a debtor, he must first submit complete information to the Comptroller's office and obtain its approval before applying to an appropriate court for an order authorizing the consummation of the sale or settlement. Although this involves a vast amount of work on the part of the Washington staff of the Insolvent Division, the close supervision thus required has produced gratifying results. The procedure has served to stimulate careful and vigorous action on the part of the receivers in expeditiously liquidating the assets of the receiverships and has served also to keep the administration of insolvent national banks remarkably free from fraud and mismanagement.

On one occasion since the banking holiday one of the ranking members of Congress, aware of the delay involved in obtaining court orders approving sales and compromises, suggested to the Comptroller the desirability of amending the law by which the requirement for court orders covering these transactions would be eliminated. He stated that in his observation and experience this was one bureau the history and record of which was such that it could be implicitly trusted to handle these transactions without court approval. The Comptroller, while appreciating the recognition of the office record,

[71] Title 12, U. S. C, secs. 192 and 198.

declined the proffer and urged the Congressman not to propose such legislation for the reason that these court hearings afford both creditors and shareholders of receivership banks, as well as the entire public, an opportunity to become acquainted with the details of the particular transactions, a proper place to voice objections if any exist and also affords an opportunity in connection with sales to secure greater offers for the property if any one interested in it feels it is worth more than the amount for which it is proposed to be sold.

It may not be generally known that these receivership banks are examined by the office also. For the purpose there is a Chief Examiner of Insolvent National Banks located in Washington who has serving under him twenty-eight examiners and assistants. These are highly trained men, taken in the main from other posts in the Insolvent Division, who are fully informed as to requirements and procedure. In addition, receivers are required to submit to this office proper vouchers of all disbursements and quarterly reports covering receipts and expenditures for the previous three months.

Receivers are not, as some may think, allowed fees for their work as is usual in bankrupt estates. On the contrary they are paid a salary on a basis fixed by this office, commensurate with the duties and responsibility existing in the particular receivership. This salary is as a general rule lower than that paid by the bank to its principal officer prior to suspension and from time to time it is reduced co-extensively with the reduction of assets and responsibilities through liquidation.

This close supervision of the liquidation of national banks has established a record of returns to creditors which has been said to be far more favorable than that of any other major liquidating program. Since the first failure of a national bank, 2,185 have been completely liquidated through receiverships or restored to solvency. The expense of this liquidation covering salaries of receivers and their clerks, attorneys' fees, court costs, interest on money borrowed to pay dividends, fuel, light and all other charges, has been only seven cents out of each dollar of collections. This liquidation is also said to be outstanding in that it represents an all time average return to depositors of 66.86 per cent of all proven creditors' claims for the seventy-five year period.

Prior to the inauguration of the law establishing the Federal Deposit Insurance Corporation individuals were ap-

pointed by the Comptroller of the Currency to serve as receivers of failed national banks. Each individual receiver is required to obtain a bond from an approved surety company providing protection for the creditors of the bank for which he is appointed receiver against any failure on his part to correctly account for any of the assets placed in his custody, from any losses resulting from his failure to comply with the instructions of the Comptroller and, of course, from any losses sustained through irregular or dishonest conduct.

The law establishing the Federal Deposit Insurance Corporation requires that it shall be appointed as receiver for any national bank insured by it which becomes insolvent.[72] Since all active national banks must under the law be insured by the Federal Deposit Insurance Corporation it follows that that Corporation must be appointed receiver for such national banks which have or may become insolvent subsequent to the creation of the Corporation. This provision of law requires a duplication of effort, to some extent, for the reason that the Corporation must in turn appoint an "agent" or "liquidator" to be placed in immediate charge of the closed bank. This "agent" is comparable to the individual receiver who under the former practice worked directly under the supervision of the Comptroller. The "agent" now must report to the Corporation, making recommendations, and the like, for its use and guidance, so that it may in turn make its reports and recommendations to the Comptroller for approval and authority to act. At the end of December 1937, the Corporation was serving as receiver, under the supervision of the Comptroller of the Currency, for nine insolvent national banks, the remainder being in charge of individual receivers.

It would serve no useful purpose to go into detail regarding the numerous practical administrative problems which must be solved in the course of the liquidation of national banks. It should be noted however that the variety and scope of the administrative and legal problems, activities, and operations involved are surprisingly extensive and they are by no means confined to the technical questions arising under the national banking statutes. For instance, in connection with national bank receiverships the Comptroller, through the receivers, has operated, or had an interest in, the following types of assets: Railroads, rural telephone systems, newspapers, peanut farms, cotton farms, coal mines, timber tracts,

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[72] Title 12, U S C, sec 264(l)(4).

hotels, cattle ranches, factories, mills, office buildings, boys' schools, race tracks, orchards, orange groves, a monastery, an old ladies' home, iron mines, title companies, automobile manufacturing plants, road-houses, night clubs, and the like. These assets were either inherited by us with the receiverships or were subsequently acquired by foreclosure or surrender incident to the enforcement of collateral security as part of the liquidation required to protect the interests of the depositors.

The primary duty of the receiver is to collect the assets of the bank but in the process of collection he must make numerous adjustments with debtors who are financially unable to pay their obligations. Provisions must be made for the disposition of personal property owned by the bank or acquired by the receiver. Also provisions must be made for the management of the real property similarly owned or acquired during the period of the receivership. Frequently the receiver's only method of recovery is to take from a debtor in payment of his obligation livestock which was previously subject to lien or other personal property which requires specialized attention for preservation and disposition

Under the law the Comptroller has the full responsibility for the collection of all assets [73] including those which may not be shown by the books or records of the bank at suspension, such as charged-off notes, any stock assessment levied by the Comptroller, directors' liability for losses sustained by the bank through negligence or mismanagement on the part of the directors, and claims against defaulting officers and their sureties for losses sustained through irregular or dishonest acts on the part of such persons. The Comptroller's authority in regard to the collection and disposition of the assets is limited only by the provisions of law requiring that all sales of assets and compromise settlements of bad or doubtful debts must bear the approval of a court of record of competent jurisdiction.[74] The administrative functions which must be supervised by the Comptroller include the administration and distribution of all trust estates for which the banks were acting in a fiduciary capacity prior to insolvency.

The Comptroller has the duty to determine the amount and character of the liabilities of the banks.[75] He must determine

[73] Title 12, U S. C, sec. 192
[74] Title 12, U S C, secs 192 and 198.
[75] Title 12, U S C, sec 194.

whether a particular claim is entitled to payment in full or merely to dividends along with all other general creditors. He must determine whether a secured creditor is entitled to the benefit of the collateral security which he holds. He must determine whether persons who were indebted to the bank and who also have deposits in the bank are entitled to pay their obligations with the funds on deposit by way of set-off. In addition he has the responsibility of distributing proceeds of the assets ratably among all creditors of the institution.[76]

A brief review of some of the legal questions which demand the attention of the Comptroller, which arise in the course of the liquidation of a national bank, may also be of interest.

Suits instituted against debtors of the bank for the purpose of enforcing the payment of their obligations are of a general nature and usually can be handled by attorneys appointed by the Comptroller to serve as counsel to individual receivers. The supervision of these suits by the Legal Division is more or less routine. Some, however, involve unusual legal problems and in such instances the legal staff of the office renders assistance and directs the procedure to be followed by the attorneys in the field. Except in occasional instances all cases involving receivership matters reaching the Supreme Court of the United States are participated in or handled entirely by the attorneys of the Legal Division.

In speaking of the field attorneys it should be mentioned that before an attorney is employed by the Comptroller to serve as counsel for any receiver of an insolvent national bank his qualifications are carefully considered with regard to the problems in the particular trust and he is required to enter into a written contract whereby he vests in the Comptroller the power to determine the reasonableness of any fee bill submitted by him and agrees to abide by the Comptroller's decision. In this manner exorbitant fees are avoided and competent legal services are obtained for reasonable compensation. Every fee bill is subjected to the very careful consideration of members of the legal staff specialized in the matter of fixing fees for legal services. Following the banking holiday it was necessary to disallow many fee bills and to drastically reduce others, particularly since no allowances were made for Reorganization services. This has served to keep receivership expenses at a minimum and at the same

[76] Title 12, U S. C., sec. 192.

time provide adequate and competent legal assistance to the receivers.

Prior to the statutory elimination of stock assessment liabilities of shareholders of national banks, as provided in the Banking Acts of 1933 and 1935,[77] one of the first duties of the Comptroller, after a bank had been declared insolvent was to determine the necessity of levying an assessment against shareholders.[78] His determination of such necessity is conclusive and in the absence of fraud is not subject to judicial review.[79] Although statutory provision has been made now for the elimination of the "double liability" feature of national bank stock in banks operating as going concerns on the effective date of the amendment or those organized after that date, questions pertaining to stock assessments which have been levied upon stock issued prior to this change in the law furnish numerous legal problems.

Some of the problems in this phase of liquidation, briefly summarized, are:

Assessments against estates of deceased shareholders [80]

Assessments against the actual owner though the stock is not registered in his name.[81]

Assessments on stock in which the holder has only a life interest.[82]

Assessments on stock transferred to holding companies in exchange for stock of the holding companies, or to a trustee in exchange for participation certificates.[83]

Assessments on stock held by trustees for the benefit of minors.[84]

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77 Title 12, U S. C., sec. 64a.

78 Title 12, U. S. C, sec. 192.

79 See *Thomas v Hubbard,* 4 F. Supp. 520, *Hays v. Wilkinson,* 72 F. (2d) 201; *Miller v. Stock,* 65 F. (2d) 773; *Silk v. Ake,* 83 F. (2d) 618, *O'Connor v Watson,* 81 F. (2d) 833, cert den. 298 U. S. 657.

80 See *Pufahl v Parks,* 299 U. S. 217; *Forrest v Jack,* 294 U S. 158; *Seabury v Greene,* 294 U. S. 165.

81 See *O'Keefe v Pearson,* C. C. A. 1st, 73 F. (2d) 673.

82 See *Schlener v. Davis,* C. C. A. 5th, 75 F. (2d) 371, cert den 295 U. S 744.

83 See *Barbour v. Thomas,* 86 F. (2d) 510, cert den. 57 Sup Ct. 513, 300 U. S. 670; *Metropolitan Holding Co. v. Snyder,* C. C A. 8th, 79 F. (2d) 263; *Laurent v Anderson,* C. C. A. 6th, 70 F. (2d) 819 and *O'Keefe v. Pearson,* 73 F (2d) 673.

84 *Heiden v. Cremin,* C. C. A. 8th, 66 F. (2d) 943, cert. den. 290 U. S 687; *Riley v Bondi,* C. C. A. 8th, 64 F. (2d) 515; *McNair v. Darragh,* C C. A. 8th, 31 F. (2d) 906, cert. den. 280 U. S. 563.

Assessments on stock acquired *ultra vires* by a banking corporation.[85]

Other legal problems in the insolvent banks include the determination of whether or not the directors of a national bank which has failed are subject to either statutory or common law liability for losses resulting from their acts or failures to act[86] The solution of such problems requires the application of special legal knowledge. Such liabilities are divided into those which come under the heading of "common law" liabilities such as favored loans and improvident loans, and "statutory" liabilities such as those which exist by reason of the violation of an Act of Congress.

A so-called "favored" loan is one made to some person or company so related to one or more of the directors as to give to the interested directors an unwarranted advantage through the use of bank funds A loan to a director's relatives, to himself, or to a company in which he is interested is examined carefully with the view of determining whether it constitutes a "favored" loan Such loans are not always objectionable but they become so if they are also improvident. An improvident loan is one made under such circumstances as to indicate that the directors in approving the loan exercised poor judgment and were negligent and failed to act as ordinarily prudent bankers should act. The following illustration of a "favored" loan is taken from the records. In this instance all directors were members of the same family. As such directors they approved clearly improvident loans to themselves, other relatives and companies in which they were interested. It was also discovered that they had sold assets of the bank to companies in which they were interested for sums far below their true value and on the other hand had purchased for the bank assets of the same companies for sums greatly in excess of their value. The particular directors clearly acted in bad faith and were entirely too liberal to themselves with the money of the depositors of their bank.

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[85] See *Reconstruction Finance Corp et al v Receiver,* 76 F (2d) 566

[86] The case of *Anderson, Receiver v. Akers, et al*, 7 F Supp. 924, 9 Fed. Supp 151, 11 Fed Supp 9, rev by Circuit Court of Appeals 86 F. (2d) 518, which in turn was reversed by the Supreme Court and the case remanded to the lower court for a new hearing, 300 U. S. 652, contains the most complete discussion available of the liability of directors of a banking corporation

In some instances directors have permitted improvident loans because of purely humanitarian considerations rather than a desire to injure their bank or commit fraud. As an example of this, the directors of one bank approved loans to poor laborers and servants in whom they seemed to take a personal interest. Of course, the borrowers were unable to repay the loans and this fact was known to the directors at the time. Another example was found in a Mid-Western State where the directors of a bank took particular pride in a large municipal park, valuable chiefly for display purposes, which had been built by local citizens and incorporated for the unique purpose of conducting a "tower of prayer" and a "golf course." Loans which were not warranted by the financial status of the corporation were permitted by the directors of the bank. When the bank subsequently failed it became necessary for this office to instruct the receiver to take appropriate steps to recover from the directors so much of the loss thus sustained as their financial responsibility would permit.

Other instances where directors of national banks have been held personally responsible under their so-called "common law" liability are where losses have been sustained by virtue of the fact that the directors failed to perform their duties of supervision of the management of the bank and permitted officers in active charge of the bank to conduct all of its affairs without their participation.

The principal items for which directors are held responsible under their so-called "statutory" liability are excessive loans and illegal dividends. One section of the National Bank Act prohibits loans to any one borrower in excess of ten per cent of the unimpaired capital and surplus of the bank.[87] The object of this statutory provision is to prevent a bank from investing too much of the depositors' money with a few borrowers, thus subjecting it to the hazards of substantial loss as a result of only a few business reversals. There are exceptions to the limitation on loans, such as where a larger loan is secured by readily marketable, non-perishable staples worth not less than 115 per cent of the amount of the loan. The statutory limitation is for the protection of depositors and other creditors and, therefore, the directors must be held responsible for any loss resulting from a violation of it.

[87] Title 12, U. S. C., sec. 84

There are statutory provisions prohibiting the declaration of dividends under certain conditions.[88] In general, the effect of the statute is to prohibit the payment of dividends out of capital rather than surplus and profits. Upon the failure of certain national banks it was found that the directors, in an effort to sustain their reputation for business acumen, had declared dividends out of capital and thus rendered themselves personally liable for the amount distributed. In another case, the directors authorized the purchase of stock of the bank with the bank's own funds in violation of a provision of the banking laws [89] and in one instance it was ascertained that the directors permitted the use of bank funds for the purchase and operation of a manufacturing company.

In all instances the Comptroller of the Currency, through his Receiver, must have exhaustive examinations and, in many instances, audits made of the activities of the directors of the national banks which become insolvent, for the purpose of ascertaining whether any losses have resulted from failure on the part of the directors to comply with their common law duties or breaches of statutory prohibitions [90] Wherever such losses have been discovered appropriate steps have been or will be taken under the guidance of the Legal Division to collect the amounts of these losses. Accurate figures are not readily available as to the total of recoveries for the benefit of creditors from this source prior to September 1, 1935, however, from that date through December 31, 1937, $8,622,073.00 has been collected for the benefit of the creditors of the several receiverships wherein the claims were asserted.

It is frequently necessary upon the suspension of a national bank to ascertain the facts relating to losses which have been sustained as a result of irregularities on the part of officers and employees of the bank. When an irregularity or dishonest act is ascertained, the Comptroller is faced with the problem of recovering the loss from the defaulter or his surety. It would not serve any good purpose to record the the methods by which dishonest bank officials have attempted to misappropriate bank funds and escape detection. It suffices to note that since January, 1933, over $3,300,000 has

[88] Title 12, U. S. C, sec. 56.

[89] Title 12, U. S. C., sec. 83.

[90] For an example of the dereliction of a bank director, see *Mechanics National Bank v. Culhane,* 299 U. S. 51.

been recovered from defaulting officers or their sureties for the benefit of the creditors of insolvent national banks.

Some of the claims asserted against surety companies by the receivers are not on fidelity bonds covering officers and employees. For instance, in one pending case the president of a national bank was obligated to several friends, one of whom was insistent upon being paid immediately the sum of $20,000. The president accepted his note although he knew the individual was financially irresponsible, made available to him $20,000 which was withdrawn by check and in order to make the transaction look like a loan for which he could obtain the approval of the directors, he sought the assistance of an acquaintance who was an official of a recognized surety company. That official, without informing his employer, executed a bond purporting to guarantee the bank against any loss on the note. This bond was attached to the note and was the basis of the approval of the loan by the board of directors. Thereafter other practically identical transactions were engineered by the bank president with the aid of the same official of the surety company to the end that approximately $120,000 of the bank's funds were paid out on worthless notes purportedly secured by the note-guaranty bonds of the surety company.

The national bank examiners inspected the bonds as well as the duly certified and authenticated powers of attorney attached thereto wherein the agent of the surety company was granted power to execute such bonds and both the Examiners and the Comptroller of the Currency relied upon the validity of the bonds in permitting the bank to remain open for business. Depositors considered the bank solvent since the Comptroller, as their representative, permitted it to operate; some of them deposited new moneys in the bank and others permitted old deposits to remain therein. One man in particular had placed in the bank over $300,000 only after his representative had checked the assets of the bank including the notes secured by these guaranty bonds. Shortly thereafter the bank failed and the fraudulent bank president committed suicide.

It was then discovered by the surety company that its own agent had defrauded it and suits were instituted to cancel the bonds which had been executed by him. The receiver also discovered that the bonds had been placed among the assets of the bank by virtue of a conspiracy between the former bank president and the surety company official and instituted

suit against the surety company for the purpose of recovering the amount of such bonds for the benefit of the creditors of his receivership. It was contended by the receiver that since the surety company through its employee made it possible for the bank president to defraud the directors of the bank and the bank examiners whose duty it was to examine the bank and thus the depositors, the surety company should be liable to the creditors of the bank for the amount of the loss. The case is now pending before the United States Supreme Court for a review of a decision of a United States Circuit Court of Appeals denying the Receiver the right to recover the loss.[91] We call attention to the case only as an illustration of the problems to be faced in bank liquidation.

The Congress of the United States has specifically provided in the National Bank Act that the assets of an insolvent national bank must be ratably distributed among the creditors of the bank.[92] Even the United States Government must be treated in exactly the same manner as other general creditors of the bank.[93] In this respect the National Bank Act differs from the Bankruptcy Act wherein the United States Government is given preferential treatment. Many claims for preference have been asserted and while this office has as much interest in making available to such claimants property which belongs to them as it has in making available to general creditors the proceeds of the assets of the bank, if the claimant has not established beyond a reasonable doubt that certain property in the hands of a receiver belongs to him the claim is denied and the burden of proof placed upon the claimant to prove that he is entitled to be treated other than as a general creditor of the trust. The decisions of the Federal Courts have clearly established the rule and made it possible for the Comptroller to enforce the ratable distribution mandate of the National Bank Act by denying the right of individuals or public officials to preferential treatment in violation of the rights of the other general creditors of the institution.[94]

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[91] *Deitrich, Receiver, v. Standard Surety and Casualty Company,* 90 F (2d) 862, 866, cert granted November 8, 1937

[92] Title 12, U S C, sec 194.

[93] *Cook County National Bank v U S*, 107 U. S 445

[94] Illustrative of these problems are three recent Supreme Court cases,—*Jennings, Receiver v United States Fidelity and Guaranty Company,* 294 U S 216; *Old Company's Lehigh, Inc. v Meeker, Receiver, et al*, 294 U. S 227, and *Adams, Receiver, v Champion,* 294 U. S 231,—which decided that where preferred claims are asserted against insolvent national banks in

The validity of claims and the manner of distribution of the proceeds of liquidation involves numerous questions relating to the right of set-off. The term is applied to a situation in which a debtor of the bank is at the same time a creditor of the bank, as for instance, one who owes the bank $5,000 and at the time the bank closes has a deposit balance of $4,000. Here the actual debt due the bank is the difference between the amount due on the note and the amount on deposit with the bank. In this case it would be $1,000.

Many difficulties arise in determining whether certain off-sets are available and illustrations could be made in a great volume—a few will suffice. It is quite simple where there is a single maker of a note and that maker is the sole owner of an account in the bank. Where the maker does not have an account in the bank listed under his name but under some other name, as for instance a trade name, he is required to furnish proof that he is the actual and sole owner of the account and was the owner of the account at the date of suspension.

Another illustrative problem is where two or more individuals execute a joint and several note as makers and one of those individuals has a deposit balance in the bank in his own name. In such cases the offset is allowed to the extent that the depositor is obliged to pay the note.[95]

Another problem arises if the debt owed by the bank is in the name of several persons and some but not all are indebted to the bank. If a note representing the claim of the bank has

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receivership the claimant must show (1) that the transaction in question arose out of a trust relationship existing between the bank and the claimant (as distinguished from the debtor and creditor relationship arising out of the ordinary deposit), (2) that as a result of the transaction the assets of the bank were actually augmented or increased (as distinguished from mere bookkeeping debits and credits), and (3) that the augmented assets thus accruing were retained by the bank in whole or in part and were capable of being traced to the hands of the receiver. The decisions settled questions highly controversial in nature; and the fundamental principles established apply generally to all insolvent estates such as equity receiverships, bankruptcies, etc. A further application of these doctrines appears in *Hoffman v. Rauch,* 300 U. S 255, decided March 1, 1937, where the Supreme Court denied a preference claim against a national bank in receivership, it appearing that the bank had misappropriated certain bonds held by it for safekeeping, but the transaction had resulted in bookkeeping credits only, with no actual augmentation of the assets of the bank, and hence with no basis for a preferred claim under the doctrines above indicated.

[95] See *Shannon v Sutherland,* 74 F. (2d) 530.

been rediscounted or pledged as collateral by the bank prior to suspension, even though all other conditions establish mutuality, offset cannot be allowed unless and until the receiver becomes the owner of the note free from any lien.[96]

If an individual is indebted to an insolvent national bank in his individual capacity and has a claim against the bank in a representative capacity, such as a trustee, guardian, or agent, he cannot be permitted to offset the claim against his personal debt.[97]

The decisions of the Federal Courts have rendered great assistance in developing a uniformity of offset rules applicable to insolvent national banks. It will be realized that if the banking laws of each particular State regarding offsets were to be applied to insolvent national banks there could be no uniformity in the distribution of the assets of such banks because in one State an insolvent national bank would be required to allow an offset which in another State would be disallowed.[98]

In 1930 a statute was enacted by the Congress of the United States under which national banks may pledge their assets to secure deposits of public moneys to the same extent that State banks can pledge their assets in each respective State. In the early part of 1934, the United States Supreme Court rendered a decision holding that prior to 1930 national banks were without power to pledge their assets to secure deposits of public funds.[99] The Supreme Court also held in a companion case that national banks have no authority to pledge their assets as

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[96] See *Ellerbe et al. v Studebaker,* 21 F. (2d) 993.

[97] See *Dickens v Howard,* 67 F (2d) 263, *Thomas v Potter Title and Trust Company,* 2 F Supp 12; *Dakin v Bayly,* 290 U. S 143.

[98] For a further illustration of typical cases involving offset questions see. *Roth v. Baldwin,* 74 F. (2d) 1003 (stock assessment liability vs. dividend on deposit account); *Wasson v White,* 12 F. (2d) 809 (rent accruing subsequent to receivership on office in bank building vs. deposit account of lessee); *Jewett v. Martinsville Milling Co ,* 76 F. (2d) 153 (corporation deposit vs. note of corporation's president); *Gray v School District,* 67 F. (2d), 141, cert den 291 U. S 660 (sinking fund deposit vs. general obligation of school district); *Bromfield v. Trinidad,* 36 F. (2d) 646 (express or implied agreement for set-off); *Willing v Binenstock,* 302 U S. —, 82 L. Ed. — (endorsement or other secondary liability vs deposit account).

[99] See *City of Marion v. Sneeden,* 291 U. S. 262, subsequently the Supreme Court decided that pledges made by national banks to secure public monies prior to the 1930 amendment became valid upon the passage of the amendment: *Lewis v. Fidelity & Deposit Co.,* 292 U. S. 559, *McNair v. Knott,* 302 U. S. —, 82 L. Ed. —.

security for private deposits, thus preferring one depositor over another, except where specifically provided for by the Acts of Congress.[100] As a result of the statute and the court decisions mentioned it was necessary to thoroughly analyze the laws of the several States as to the authority given State banks to pledge their assets to secure public funds in order to ascertain whether pledges made by national banks in those States were valid. An examination of the insolvent national banks being liquidated by the Comptroller's office revealed that 933 insolvent national banks located in 43 States had at suspension over three thousand secured deposits totalling almost $200,000,000. It was a tremendous task to analyze those transactions for the purpose of determining the validity of the pledges. Where such pledges were determined to be invalid it was necessary to make demand upon the secured creditors, whether they be towns, cities, or states, to return to the receiverships the difference between the full amount they had received and the amount which they would have received had they been treated like all other general creditors of the bank. When such political units refused to return the funds it was necessary to institute suits for the purpose of enforcing the demands.[101] Almost three and one-half million dollars have been recovered for the benefit of the creditors of particular insolvent national banks from political units which received preference by virtue of illegal pledges of assets and many cases of this nature are still pending before the courts and will probably result in substantial additional recoveries.

In addition to the voluminous work involved in supervising the liquidation of the assets of the numerous insolvent national banks there exists also the duty of supervising the liquidation of the trust departments in those insolvent national banks which conducted fiduciary activities. This has been touched on to some degree as relating to conservatorship banks. The term "liquidation" as applied to trust departments does not mean the conversion of the assets in the trust estates to cash and the distribution of the proceeds but rather the process by which all those trust estates are transferred to successor fiduciaries. Pending such transfers it is necessary

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[100] See *Texas & P. R. Co. v. Pottorff*, 291 U. S. 245.

[101] See *Granzow v. Village of Lyons*, 89 F. (2d) 83; *Webb v. American Surety Co.*, 88 F. (2d) 171; *Queenan v. Mays*, 90 F. (2d) 525; *Leonard et al. v. Gage et al.* (CCA 4th), Jan. 4, 1938; *Hood v. Hardesty* (CCA 4th) Jan. 4, 1938; *O'Connor v. Rhodes*, 79 F. (2d) 146.

to conserve and administer the assets in the trust estates. This entails a careful management of the real and personal property owned by the respective estates and the making of such intermediate distributions as are necessary. Each step taken by the receivers in administering these trust estates must have the supervision of the Comptroller pending final disposition of the particular trust

In the total of receiverships handled by this office since the banking holiday there were approximately three hundred national banks which had been conducting trust departments A survey of the number of trust estates in those banks as of their respective dates of insolvency reveals an aggregate of approximately twenty thousand.

These separate trust estates may be divided roughly into three classes, i. e., so-called "corporate trusts," "private trusts," and "court trusts." Each type has its own peculiarities involving procedure as to disposition As to "corporate trusts," there are apt to be numerous participants and the duties of the trustee are prescribed in complicated legal documents which must be analyzed and construed in order to determine the procedure available for the appointment of a successor trustee and the rendering of a proper accounting by the receiver for the activities of the bank. The amount of the assets involved in these corporate trusts varies from a few thousand dollars to literally millions of dollars.

The term "private trusts" is applied roughly to trusts which are created by individuals in agreements made between them and their chosen trustee, through operation of which the trustee undertakes to administer real or personal property in accordance with the terms of the agreements and for the benefit of the persons designated therein. These trusts frequently can be disposed of by the agreement of the parties if all are living and can be located Many such trust instruments provide that the creator of the trust can at any time terminate the trust and where that power is exercised the problem is simplified. However, where it is impossible to dispose of "private trusts" by one of the above-mentioned methods, it is necessary to adopt some court procedure.

In the so-called "court trusts," the banks act in the capacity of executors, administrators, testamentary trustees and guardians of minors and incompetents The disposition of these trusts must be in strict compliance with the laws of the respective States and both with regard to this group of trust

estates and the preceding group of so-called "private trusts," accurate accounts must be prepared in each case and either submitted for the approval of the interested parties or presented to the court for adjudication and confirmation.

During the administration and liquidation of these trust departments a number of interesting problems have arisen. Many national banks throughout the country operated so-called "mortgage pools." These consisted of groups of mortgages treated as one unit against which participation certificates were sold either to the public or to trust estates or both. Each "mortgage pool" is considered a separate trust estate and it is necessary for the insolvent national banks to obtain successor trustees.[102] This means in each case an elaborate accounting of the activities of the bank. Where the "pools" have been operated for a number of years and, as in some instances, involve assets aggregating as high as ten million dollars, the accounting problem is a very voluminous task. In these, because of the numerous persons or estates involved, litigation is almost inevitable.

Many banks sold participations in mortgages and acted as servicing agents or trustees of those separate mortgages. In one case as many as five hundred trust estates owned fractional interests in one mortgage and the problem of transferring that mortgage to a successor trustee meeting the approval of all those trust estates necessarily involved a complicated and lengthy procedure.

In a number of States, national banks are required to deposit with the State authorities as a condition precedent to the conduct of fiduciary activities substantial amounts of assets to be held by the State authorities as security for the faithful performance by the bank of its fiduciary duties[103] Because of this it has been necessary that these statutes be studied so that in the disposition of the trust estates the receiver will comply with the laws of that State and preserve such proofs of proper disposition as will satisfy the State authorities to the end that possession of the pledged assets will be regained by the bank.

The law provides that where a national bank, acting as a fiduciary, deposits trust funds with its commercial depart-

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[102] See *Commonwealth Trust Company of Pittsburgh v. Bradford,* 297 U S. 613

[103] Under the provisions of Title 12, U. S. C., sec. 248(k) national banks must comply with State law in the operations of their trust departments.

ment, those funds must be secured by assets set aside and deposited with the trust department. This has given rise to numerous problems in construing the trust instruments and the intention of the parties revolving around the question as to whether certain funds should or should not be classified as secured.[104]

Other problems have arisen regarding the proper construction of trusts or the validity of the trusts and these questions are frequently raised by persons having interests in conflict with other beneficiaries. Thus the receiver is forced into litigation through no fault either of the bank or the receiver. There is also a tendency on the part of the beneficiaries to assert claims against an insolvent bank fiduciary on the basis of acts of the bank which they would not criticize while the bank was a going concern. This is accounted for in part because the economic conditions which contributed to the downfall of the bank frequently produce a shrinkage in the value of the assets of the estates. While the bank may have exercised its best judgment at the time of making a certain investment, the receiver frequently has to defend its action at the time of the transfer of the estate to a successor. It will be appreciated from the foregoing that the thousands of trust estates, the management and disposition of which must be supervised, involve an immense amount of highly technical and specialized work.

Considering the hundreds of millions of dollars of assets involved in these thousands of trust estates, the occasions in which courts have found the banks liable for loss sustained by virtue of some unwise or improper act in the management of an estate are amazingly rare and justify the conclusion that national banks throughout the country have faithfully performed their fiduciary duties and preserved, protected and wisely managed the estates entrusted to their care since fiduciary powers were conferred upon national banks by the Federal Reserve Act of 1913.

Bearing in mind all of the activities in connection with the liquidation of insolvent national banks, it will not be surprising to learn that during the period when the work of the Insolvent Division was heaviest a tabulation showed that the

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[104] See *Ticonic National Bank et al. v. Sprague et al.,* 14 F. Supp. 900; 87 F. (2d) 365; 90 F. (2d) 641; cert. granted October 18, 1937; *Richman v. First M. E. Church,* 76 F. (2d) 344, cert. den 296 U. S. 593; *Gimbel v. Harriman National Bank,* 83 F. (2d) 153.

average outgoing mail per month exceeded twenty-three thousand letters containing specific instructions on problems arising in the insolvent national banks throughout the country. During December of 1937, alone, this office audited and returned to receivers for distribution to creditors 185,238 separate dividend checks representing a total of $7,222,212 60. When there is added to this the enormous volume of mail relating to the other Divisions heretofore discussed, the replies to numerous inquiries of creditors of insolvent banks and their Congressmen concerning their expected dividends, the replies to letters from bankers and other interested persons seeking advice and opinions on banking questions, both legal and otherwise, some idea may be gained of the size of the task falling on this office at the time of the banking holiday.

CHAPTER VIII

Conclusion

That the banking business has largely recovered from the unusual conditions which existed in 1933 is self-evident. This may be illustrated by the fact that 7,635 national banks, responding to a call for a report of condition as of December 31, 1928, had aggregate deposits of $24,347,380,000, whereas 5,266 with 1,515 branches operating in the United States, responding to a like call on December 31, 1937, (latest available figures) had deposits of $26,540,694,000—an increase of $2,193,314,000 in national banks. Most of these branch banks are virtually separate or unit banks and considered in that light, the national banking system has not contracted numerically more than is considered desirable in the light of the overbanked condition of the country prior to the banking holiday.

The tabulation of earnings and dividends from reports of the 5,266 active national banks for the year ended June 30, 1937, shows that net additions to profits before any deductions were made for the payment of dividends were $286,561,000, representing an increase of 18.58 per cent over the amount reported for the year ending June 30, 1936 The three fiscal years, 1935, 1936, and 1937, are the only years since 1931 that show the banks as a whole have operated at a profit. Profits for the year ending June 30, 1937, were 445.4 per cent over the year 1931.

The following tabulation showing the classifications of commercial loans as reported by national bank examiners in 1934, and 1937, reveals the improvement in the quality of the loans made by national banks:

	1934		*1937*
Banks	5,275	Banks	5,312
Loans	$7,740,596,000	Loans	$8,426,931,749
Good	65.88%	Good	87.53%
Slow	27.05%	Slow	10.68%
Doubtful	4.19%	Doubtful	1.14%
Loss	2.88%	Loss	.65%

The following percentage tabulation covering the sources of gross earnings which amounted to $847,197,000 for the year ended June 30, 1937, may be of interest [105]

Gross Earnings

Interest and discount on loans	42.11
Interest and dividends on bonds, stock, and other securities	39.15
Interest on balances with other banks	.10
Collection charges, commissions, fees, etc.	2.73
Foreign department (except interest on foreign loans, investments and bank balances)	1.00
Trust Department	3.99
Service charges on deposit accounts	3.46
Rents received	5.92
Other current earnings	1.54
	100.00%

The value to the Nation of a sound banking system to meet its expanding commercial needs cannot be over-emphasized. A sound banking system requires efficient, experienced and honest bankers, and a capital structure adequate for the protection of depositors.

Our Governments, State and Federal, are thoroughly alive to the fact that good government requires good banking, and that public interest and efficient administration require adequate measures to be taken from time to time, legislatively and otherwise, to meet changing conditions; however, the governmental authorities cannot do it all. The bankers must do their part in developing increased efficiency and must constantly bear in mind that their banks are quasi-public institutions designed to serve the public and not solely to build up private profit. For the most part they are taking steps to accomplish the desired objectives.

In order that the weak spots in our banking system may be known we wish to comment that recently there has been compiled by the Comptroller's office a summary of the causes of bank failures in the National Bank System from April 14, 1865, the date of the first national bank failure, to December 31, 1936. During that period there were 2,955 receiverships (including 15 State banks and one building and loan association,

105 For information concerning the distribution of Expenses and Losses see statistics p. 106, 75th *Annual Report of the Comptroller of the Currency* covering year ended Oct 31, 1937.

located in the District of Columbia) liquidated by the Comptroller of the Currency. These failures have been attributed to the following causes: 1,523 to local financial depression; 1,407 to incompetent management; 489 to depreciation in value of securities and collateral; 385 to runs on the banks, due to lack of public confidence; 271 to defalcations of officers and employees; 160 to other miscellaneous causes; 128 to excessive loans to officers or directors or to others for their benefit; and 86 to excessive investment in bank building. These causes total 4,449, and the discrepancy between the number of failures and the number of causes to which they were attributed is due to the fact that in many cases several causes contributed to a failure, any one of which would have made necessary the appointment of a receiver.

The remarkable recovery of national banks since the banking holiday of 1933, as reflected by the comparison between the lack of profits of the banks as a whole for the several years prior to 1933 and their substantial profits during the past three years, proves conclusively the effectiveness and value of the emergency and remedial legislation and is an eloquent commentary on the sound judgment exercised by those men who were ultimately responsible for the preservation and constructive development of the Nation's financial structure since 1933

During the troublesome times of 1933 the country was fortunate in having as Secretary of the Treasury a wise counsellor and a calm executive in the person of Mr. W. H. Woodin. He was to be found at his desk or engrossed in conferences in other offices almost any hour of the day or night, and those who knew him and the prodigious amount of work performed by him have no doubt that his untimely death was in large part the result of his conscientious devotion to the services of his country.

The appointment of Mr. Henry Morgenthau, Jr., as successor to the late Mr. Woodin was particularly fitting. If in no other particular, the herculean task accomplished by him in handling the Government finances will unquestionably stamp him as one of the outstanding Secretaries of the Treasury. Through refinancing Government obligations and through the exercise of excellent judgment in timing the offerings of such obligations to the public, he has saved the taxpayers of the country huge sums of money. In reduction of annual interest charges alone on December 31, 1933, the Gov-

ernment has saved the sum of approximately $250,000,000 yearly.

Mr. Morgenthau's excellent record in connection with the licensing of banks, the stopping of hoarding, and the stimulating of a more liquid currency is well known. His work in connection with the rehabilitation of the capital structures of the banks throughout the country, both State and national, is evidenced by the fact that under the authority given him by Congress[106] as of December 31 1937, he had requested the Reconstruction Finance Corporation to advance funds to 6,081 banks, both by way of outright loans and through the medium of purchases of preferred stock and capital debentures, an amount exceeding $1,068,000,000. It is impossible to estimate the benefits of this action to the country. Two definite things were accomplished: first, the banks were given ample cash reserves, and, secondly, the banks were thus enabled to carry borrowers and avoid the necessity of foreclosure on farms, homes and like collateral. The wisdom of this action is shown by the fact that of the foregoing amount, over $502,000,000 has been repaid, along with interest thereon, and that more than 1,000 of the foregoing banks have repaid the advances in full.

The financial record of our country shows that we have suffered the physical and mental agonies of twenty major panics or depressions in the 148 years from the panic of 1785 through the depression of 1933. There can be little doubt that the economic conditions in any of these periods were as distressing as those in the 1933 period. Our financial institutions, taken as a whole, have survived each of the depressions and to some extent benefited by the attendant experiences. The benefits derived from the last depression are to be found in the far-reaching remedial banking legislation, so well known to all, by virtue of which our banking institutions are operating on a sounder basis than ever before.

[106] Title 12, U. S. C, sec 51d.

APPENDIX

Extract from Report of the Research Committee—1937—Indiana Bankers Association

"From time to time in our national history there has been an agitation for increasing the number of banking units serving the country. Need for additional credit facilities, civic pride, personal ambition, and many other factors have influenced this demand. In Indiana, as is shown elsewhere in this report, the maximum number of units was achieved in 1923, when there were 1,110 national and state banks operating. As is generally known, a drastic reduction in the number of units has occurred since, until in 1936 there were only 542 units. It is natural, therefore, that some persons might at this time begin to question the ability of the remaining units in Indiana and elsewhere in the nation to serve commerce, industry, and agriculture properly.

"As we approach a discussion of the adequacy of our present system, it is important that the bankers, the public officials, and the banking public generally keep in mind the experience of the two decades preceding this one. During these two decades charters were sought and obtained by church groups, lodge groups, or political groups antagonistic to the church group, lodge group, or political group in control of existing institutions. In some instances during the years 1920 to 1930, villages of less than five hundred people had two or more banks operating. Competition in such communities was necessarily bitter, because there could be nothing other than a death struggle between the contending banks. In situations like this, only the most meager profits could be possible. As a consequence, even many seasoned bankers succumbed to and adopted the methods of operation which yielded the greatest profits, regardless of their soundness.

"Competition for deposits drove interest rates up to fantastic figures and resulted in all types of free services being offered. Competition for loans was so great that conservative

credit principles were abandoned in an effort to secure business. It is not strange that such practices took place when one realizes that at this time there was one bank for every 2,738 persons in Indiana, regardless of their wealth, age, color, or occupation. Obviously, there was not a sufficient supporting population for this number of institutions

"Exhaustive studies that have been made on this subject all agree that the over-banked condition of the state was, in a considerable measure, responsible, both directly and indirectly, for the large number of failures which occurred among banks in Indiana in the decade of the '20's and in the early '30's."

Extract from a Summary of Postal Savings Business Since the Establishment of the System by Fiscal Years *

Fiscal Year	Balance to Credit of Depositors	Increase or Decrease	
		Amount	Percent
1920	$157,276,322	—$10,046,938	—6.0
1921	152,389,903	—4,886,419	—3 1
1922	137,736,439	—14,653,464	—9 6
1923	131,671,300	—6,065,139	—4 4
1924	132,814,135	—1,142,835	0 9
1925	132,173,211	—640,924	—0.5
1926	134,178,558	2,005,347	1.5
1927	147,359,254	13,180,696	9 8
1928	152,143,349	4,784,095	3.2
1929	153,644,529	1,501,180	1.0
1930	175,271,686	21,627,157	14.1
1931	347,416,870	172,145,184	98 2
1932	784,820,623	437,403,753	125 9
1933	1,187,186,208	402,365,585	51 3
1934	1,197,920,188	10,733,980	0.9
1935	1,204,862,940	6,942,752	0 6
1936	1,231,673,156	26,810,216	2.2
1937	1,267,626,801	35,980,541	2 9

* For complete summary see report of Postmaster General to Congress for the fiscal year ended June 30, 1936.

Disposition of Non-Licensed Banks in the Reorganization Program

Groups of banks	Number	Amount
Banks licensed after capital corrections	292	$305,638,919
Banks reorganized by waiver or rehabilitation:		
Banks absorbed by another national bank	17	9,431,187
Banks absorbed by a state bank	18	10,174,715
Banks reopened under new charter	282	299,493,920
Banks reopened under old charter	248	275,505,008
Banks reorganized by Spokane sale:		
Banks absorbed by another bank	21*	20,070,016
Banks reopened under new charter	236*	862,831,838
Banks placed in voluntary liquidation	13**	1,343,597
Banks placed in receivership, plans for reorganization having been disapproved	290	138,209,538
Total unlicensed banks as of March 16, 1933	1,417	$1,922,698,738

* Receivers appointed to complete liquidation after "Spokane" sale reorganizations completed

** Receivers subsequently appointed for nine

License

The ——— of ——— is hereby permitted to open on ——— 1933 its offices in the following places ——— and to perform its usual banking functions except:

(1) To the extent prohibited in the Executive Order of the President of the United States issued on March 10, 1933 (an extract from which is printed hereon):

(2) To the extent limited or prohibited by any executive order of the President or by regulations of the Secretary of the Treasury.

This license may be revoked in whole or in part by the Secretary of the Treasury at any time.

Issued by Direction of
W. H. WOODIN,
Secretary of the Treasury.

FEDERAL RESERVE BANK OF ———
By ———————
Deputy Governor.

Extract from Executive Order of the President of the United States, Issued on March 10, 1933

"Until further order, no individual, partnership, association, or corporation, including any banking institution, shall export or otherwise remove or permit to be withdrawn, from the United States or any place subject to the jurisdiction thereof any gold coin, gold bullion, or gold certificates, except in accordance with regulations prescribed by or under license issued by the Secretary of the Treasury.

"No permission to any banking institution to perform any banking functions shall authorize such institution to pay out any gold coin, gold bullion or gold certificates except as authorized by the Secretary of the Treasury, nor to allow withdrawal of any currency for hoarding, nor to engage in any transaction in foreign exchange except such as may be undertaken for legitimate and normal business requirements, for reasonable traveling and other personal requirements, and for the fulfillment of contracts entered into prior to March 6, 1933.

"Every Federal Reserve Bank is authorized and instructed to keep itself currently informed as to transactions in foreign exchange entered into or consummated within its district and shall report to the Secretary of the Treasury all transactions in foreign exchange which are prohibited."

Subdivision B of Section 5 of the Act of October 6, 1917 as amended, and Section 4 of the Act of March 9, 1933, prescribe a penalty of a fine of not more than $10,000 and/or an imprisonment for not more than ten years for violation of the terms of the said sections.

Statement as of June 30, 1937, Showing the Total Number of Active Banks in the United States by Classes, and the Percentage That the Number of Each Class Bears to the Total and Like Percentage of Deposits

ALL BANKS

	Banks		Deposits	
	Number	Percent to grand total	Amount (000 omitted)	Percent to grand total
National banks.	5,293	33 97	$26,715,556	44.66
State member banks....	1,064	6.83	14,774,490	24.70
Non-member insured banks:				
State commercial[1].. .	7,528	48 32	6,309,846	10.55
Mutual savings.......	56	.36	1,002,293	1.67
Non-member uninsured banks:				
State commercial & private[2]	1,131	7.26	1,809,076	3 02
Mutual savings.... ..	508	3.26	9,211,109	15 40
Total............	15,580	100.00	49,822,370	100 00

[1] Includes 3 non-member insured national banks
[2] Includes 3 non-member uninsured national banks

Banks Insured with the Federal Deposit Insurance Corporation

	Banks			Deposits		
	Number	% to Total Insured Banks	% to All Banks	Amount (000 omitted)	% to Total Insured Banks	% to Total All Banks
National banks.........	5,293	37.97	33.97	$26,715,556	54 74	44 66
State member banks....	1,064	7.63	6 83	14,774,490	30.28	24.70
Non-member State banks[1]	7,528	54.00	48 32	6,309,846	12.93	10 55
Mutual savings banks..	56	.40	.36	1,002,293	2 05	1 67
Total................	13,941	100.00	89.48	48,802,185	100.00	81 58

[1] Includes 3 non-member insured national banks

Causes of National Bank Failures

From April 14, 1865, to October 31, 1936

Local Financial Depression	1,523
Incompetent Management	1,407
Depreciation of Securities and in Value of Collateral	489
Closed by Run—Lack of Public Confidence	385
Defalcation of Officers and Employees	271
Other Causes—Miscellaneous	160
Excessive Loans to Officers and Directors or to Others for Their Benefit	128
Excessive Investment in Bank Building	86
Total Number of Banks Placed in Receivership	2,955*
Total Number of Causes of Failure	4,449**

* Including fifteen State banks and one building and loan association in the District of Columbia

** In many instances several causes contribute to the failure of a bank, any one of which would make necessary the appointment of a receiver.

Combined Recapitulation Unlicensed National Banks Including D. C. Non-National Banks March 16, 1933, Showing Liabilities on Date of Suspension and September 30, 1937

Number of banks		1,417
Unsecured liabilities:		
Date of suspension	$1,922,698,738	
September 30, 1937	359,958,803	
Released to September 30, 1937		$1,562,739,935
Percent of release to date		81.278
Percent still impounded		18.722
Number of banks paying 100% at time of reorganization	448	
Number of banks paying 100% subsequent to reorganization	213	661

Recapitulation Spokane and Straight Receiverships of Unlicensed National Banks Including D. C. Non-National Banks March 16, 1933, Showing Liabilities on Date of Suspension and September 30, 1937

(Class A)

Number of banks:		
Spokane sale receiverships	257	
Straight receiverships	290	547
Unsecured liabilities:		
Date of suspension		
Spokane receiverships	$882,901,854	
Straight receiverships	138,209,538	
		$1,021,111,392
September 30, 1937		
Spokane receiverships	220,410,484	
Straight receiverships	52,268,837	
		272,679,321
Unsecured liabilities released to 9/30/37		$ 748,432,071
Percent of release:		
All receiverships		73.296
Spokane receiverships		75.036
Straight receiverships		62.181
Percent still impounded:		
All receiverships		26.704
Spokane receiverships		24.964
Straight receiverships		37.819
Number of banks which have liquidated paying 100%		135

Recapitulation Waiver and Rehabilitation Unlicensed National Banks Including D. C. Non-National Banks March 16, 1933, Showing Liabilities on Date of Suspension and September 30, 1937

(Class B)

Number of banks		870
Unsecured liabilities		
Date of suspension	$901,587,346	
September 30, 1937	87,279,482	
Released to September 30, 1937		$814,307,864
Percent of release		90 319
Percent still impounded		9 681
Number of banks releasing 100% at time of reorganization		448
Number of banks releasing 100% subsequent to reorganization		78

Total Preferred Stock Issued by National Banks to and Including December 31, 1937, Listed by States

STATE	NUMBER OF BANKS	AMOUNT
Alaska & Virgin Islands	2	$ 162,500
Alabama	26	11,060,000
Arizona	3	1,540,000
Arkansas	24	1,762,250
California	63	22,505,000
Colorado	33	4,222,500
Connecticut	23	5,786,900
Delaware	5	195,000
District of Columbia	2	1,650,000
Florida	15	1,450,000
Georgia	18	1,722,500
Idaho	9	1,095,000
Illinois	145	85,737,750
Indiana	62	9,297,900
Iowa	50	6,660,000
Kansas	47	2,444,500
Kentucky	35	4,350,000
Louisiana	15	4,400,000
Maine	24	4,035,000

STATE	NUMBER OF BANKS	AMOUNT
Maryland	28	4,094,000
Massachusetts	52	14,053,700
Michigan	54	20,612,000
Minnesota	99	13,731,500
Mississippi	15	2,755,000
Missouri	33	8,950,000
Montana	20	1,531,000
Nebraska	50	5,855,000
Nevada	3	175,000
New Hampshire	13	1,588,000
New Jersey	153	35,228,750
New Mexico	8	470,000
New York	277	142,513,500
North Carolina	20	2,055,000
North Dakota	31	2,440,500
Ohio	93	32,417,500
Oklahoma	40	10,930,000
Oregon	20	925,000
Pennsylvania	236	25,954,550
Rhode Island	3	900,000
South Carolina	7	1,560,000
South Dakota	34	2,963,000
Tennessee	27	8,062,500
Texas	148	23,413,750
Utah	9	1,575,000
Vermont	16	1,570,000
Virginia	40	4,438,000
Washington	25	3,115,000
West Virginia	41	4,435,000
Wisconsin	60	15,522,500
Wyoming	10	840,000
TOTAL	2266	$564,751,550

BANK SUSPENSIONS WITH DEPOSITS
YEAR ENDED JUNE 30–
1865 TO 1933

Item	1865 to 1929	1930 TO 1933: 1930 to 3-15-33	1930 TO 1933: Bank Holiday Suspensions [3]	1930 TO 1933: 1930 thru 3-16-33	1865 thru 3-16-33
National Banks:					
Number of banks	1,223	886	1,026	1,912	3,135
Percent number of banks by periods	39.01%	28.26%	32.73%	60.99%	100%
Total deposits at suspension	$ 497,593,000	$ 775,644,000	$1,520,044,000	$2,295,688,000	$2,793,281,242
Percent total deposits by periods	17.81%	27.77%	54.42%	82.19%	100%
State Banks:					
Number of banks	6,506	4,698	2,271	6,696	13,475
Percent number of banks by periods	48.28%	34.86%	16.86%	51.72%	100%
Total deposits at suspension	$1,793,856,000	$2,631,554,000	$1,709,432,000	$4,340,986,000	$6,134,842,000
Percent total deposits by periods	29.24%	42.90%	27.86%	70.76%	100%
Private Banks:					
Number of banks	870	206	77	283	1,153
Percent number of banks by periods	75.46%	17.87%	6.67%	24.54%	100%
Total deposits at suspension	$ 214,596,000	$ 49,510,000	$ 8,653,000	$ 58,163,000	$ 272,759,000
Percent total deposits by periods	78.68%	18.15%	3.17%	21.32%	100%
Total State and Private Banks:					
Number of banks	7,376	4,904	2,348	7,252	14,628
Percent number of banks by periods	50.42%	33.52%	16.06%	49.58%	100%
Total deposits at suspension	$2,008,452,000	$2,681,064,000	$1,718,085,000	$4,399,149,000	$6,407,601,000
Percent total deposits by periods	31.34%	41.84%	26.82%	68.66%	100%

BANK SUSPENSIONS WITH DEPOSITS—Continued
YEAR ENDED JUNE 30–
1865 TO 1933

Item	1865 to 1929	1930 TO 1933: 1930 to 3–15–33	1930 TO 1933: Bank Holiday Suspensions [3]	1930 TO 1933: 1930 thru 3–16–33	1865 thru 3–16–33
Total National, State and Private Banks					
Number of banks	8,599	5,790	3,374	9,164	17,763
Percent number of banks by periods	48 41%	32 60%	18 99%	51 59%	100%
Total deposits at suspension	$2,506,045,000	$3,456,708,000	$3,238,129,000	$6,694,837,000	$9,200,882,242
Percent total deposits by periods	27 24%	37 57%	35 19%	72 76%	100%

Item	Number of Banks	Deposits
National bank suspensions April 14, 1865 to March 15, 1933	2109 [1]	$1,273,237,000
National bank suspensions April 14, 1865 to March 15, 1933, still in charge of receivers and in process of liquidation as of March 15, 1933 with (unpaid) deposits	1070	599,800,000
Add:		
Unlicensed national banks as of March 16, 1933	1417	1,971,960,022 [2]
Total national institutions (unliquidated receiverships and unlicensed banks) undisposed of as of March 16, 1933	2487	2,571,760,022

[1] Exclusive of the 290 unlicensed national banks with deposits of $152,383,758, included in the 1936 report of this office, Table No 95, among suspensions from 1864 to March 15, 1933, and also included in data published by the Federal Reserve Board, among unlicensed bank suspensions following the Banking Holiday.

[2] Unsecured deposits subsequently ascertained as $1,922,698,738.

[3] Data compiled and published by Federal Reserve Board.

Proclamations and Executive Orders Issued by the President in Connection with the Banking Emergency

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Proclamation, March 6, 1933

Whereas there have been heavy and unwarranted withdrawals of gold and currency from our banking institutions for the purpose of hoarding; and

Whereas continuous and increasingly extensive speculative activity abroad in foreign exchange has resulted in severe drains on the Nation's stocks of gold; and

Whereas these conditions have created a national emergency; and

Whereas it is in the best interests of all bank depositors that a period of respite be provided with a view to preventing further hoarding of coin, bullion, or currency or speculation in foreign exchange and permitting the application of appropriate measures to protect the interests of our people; and

Whereas it is provided in section 5 (b) of the act of October 6, 1917 (40 Stat. L. 411) as amended, "That the President may investigate, regulate, or prohibit, under such rules and regulations as he may prescribe, by means of licenses or otherwise, any transactions in foreign exchange and the export, hoarding, melting, or earmarkings of gold or silver coin or bullion or currency * * *"; and

Whereas it is provided in section 16 of the said act "that whoever shall willfully violate any of the provisions of this act or of any license, rule, or regulation issued thereunder, and whoever shall willfully violate, neglect, or refuse to comply with any order of the President issued in compliance with the provisions of this act, shall, upon conviction, be fined not more than $10,000, or, if a natural person, imprisoned for not more than ten years, or both; * * *";

Now, therefore, I, Franklin D. Roosevelt, President of the United States of America, in view of such national emergency and by virtue of the authority vested in me by said act and in order to prevent the export, hoarding, or earmarking of gold or silver coin or bullion or currency, do hereby proclaim, order, direct and declare that from Monday, the sixth day of March, to Thursday, the ninth day of March, nineteen hundred and thirty-three, both dates inclusive, there shall be maintained and observed by all banking institutions and all

branches thereof located in the United States of America, including the territories and insular possessions, a bank holiday, and that during said period all banking transactions shall be suspended. During such holiday, excepting as hereinafter provided, no such banking institution or branch shall pay out, export, earmark, or permit the withdrawal or transfer in any manner or by any device whatsoever, of any gold or silver coin or bullion or currency or take any other action which might facilitate the hoarding thereof; nor shall any such banking institution or branch pay out deposits, make loans or discounts, deal in foreign exchange, transfer credits from the United States to any place abroad, or transact any other banking business whatsoever.

During such holiday the Secretary of the Treasury, with the approval of the President and under such regulations as he may prescribe, is authorized and empowered (a) to permit any or all of such banking institutions to perform any or all of the usual banking functions, (b) to direct, require or permit the issuance of clearing house certificates or other evidences of claims against assets of banking institutions, and (c) to authorize and direct the creation in such banking institutions of special trust accounts for the receipt of new deposits which shall be subject to withdrawal on demand without any restriction or limitation and shall be kept separately in cash or on deposit in Federal Reserve banks or invested in obligations of the United States.

As used in this order the term "banking institutions" shall include all Federal Reserve banks, national banking associations, banks, trust companies, savings banks, building and loan associations, credit unions, or other corporations, partnerships, associations or persons, engaged in the business of receiving deposits, making loans, discounting business paper, or transacting any other form of banking business.

In witness whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done in the city of Washington this 6th day of March, 1 a. m., in the year of our Lord one thousand nine hundred and thirty-three, and of the Independence of the United States the one hundred and fifty-seventh.

FRANKLIN D. ROOSEVELT.

(SEAL)
By the President:
CORDELL HULL,
Secretary of State.

Proclamation, March 9, 1933

Whereas, on March 6, 1933, I, Franklin D. Roosevelt, President of the United States of America, by proclamation declared the existence of a national emergency and proclaimed a bank holiday extending from Monday the 6th day of March to Thursday the 9th day of March, 1933, both dates inclusive, in order to prevent the export, hoarding or earmarking of gold or silver coin, or bullion or currency, or speculation in foreign exchange; and

Whereas, under the act of March 9, 1933, all proclamations heretofore or hereafter issued by the President pursuant to the authority conferred by section 5 (b) of the act of October 6, 1917, as amended, are approved and confirmed; and

Whereas, said national emergency still continues, and it is necessary to take further measures extending beyond March 9, 1933, in order to accomplish such purposes:

Now, therefore, I, Franklin D. Roosevelt, President of the United States of America, in view of such continuing national emergency and by virtue of the authority vested in me by section 5 (b) of the act of October 6, 1917 (40 Stat. L. 411) as amended by the act of March 9, 1933, do hereby proclaim, order, direct and declare that all the terms and provisions of said Proclamation of March 6, 1933, and the regulations and orders issued thereunder are hereby continued in full force and effect until further proclamation by the President.

In witness whereof I have hereunto set my hand and have caused the seal of the United States to be affixed.

Done in the District of Columbia, this 9th day of March, in the year of Our Lord one thousand nine hundred and thirty-three, and of the Independence of the United States the one hundred and fifty-seventh.

FRANKLIN D. ROOSEVELT.

(SEAL)
By the President:
CORDELL HULL,
Secretary of State.

Executive Order, March 10, 1933

By virtue of the authority vested in me by section 5 (b) of the act of October 6, 1917 (40 Stat. L. 411) as amended by the

act of March 9, 1933, and by section 4 of the said act of March 9, 1933, and by virtue of all other authority vested in me, I hereby issue the following Executive order.

The Secretary of the Treasury is authorized and empowered under such regulations as he may prescribe to permit any member bank of the Federal Reserve System and any other banking institution organized under the laws of the United States, to perform any or all of their usual banking functions, except as otherwise prohibited.

The appropriate authority having immediate supervision of banking institutions in each State or any place subject to the jurisdiction of the United States is authorized and empowered under such regulations as such authority may prescribe to permit any banking institution in such State or place, other than banking institutions covered by the foregoing paragraph, to perform any or all of their usual banking functions, except as otherwise prohibited.

All banks which are members of the Federal Reserve System, desiring to reopen for the performance of all usual and normal banking functions, except as otherwise prohibited, shall apply for a license therefor to the Secretary of the Treasury. Such application shall be filed immediately through the Federal Reserve banks. The Federal Reserve bank shall then transmit such applications to the Secretary of the Treasury. Licenses will be issued by the Federal Reserve bank upon approval of the Secretary of the Treasury. The Federal Reserve banks are hereby designated as agents of the Secretary of the Treasury for the receiving of application and the issuance of licenses in his behalf and upon his instructions.

Until further order, no individual, partnership, association, or corporation, including any banking institution, shall export or otherwise remove or permit to be withdrawn from the United States or any place subject to the jurisdiction thereof any gold coin, gold bullion, or gold certificates, except in accordance with regulations prescribed by or under license issued by the Secretary of the Treasury.

No permission to any banking institution to perform any banking functions shall authorize such institution to pay out any gold coin, gold bullion, or gold certificates except as authorized by the Secretary of the Treasury, nor to allow withdrawal of any currency for hoarding, nor to engage in any transaction in foreign exchange except such as may be undertaken for legitimate and normal business requirements,

for reasonable traveling and other personal requirements, and for the fulfillment of contracts entered into prior to March 6, 1933.

Every Federal Reserve bank is authorized and instructed to keep itself currently informed as to transactions in foreign exchange entered into or consummated within its district and shall report to the Secretary of the Treasury all transactions in foreign exchange which are prohibited.

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE,
March 10, 1933.

Address of President Roosevelt by Radio, Delivered from the President's Study in the White House at 10 P. M. on March 12, 1933

I want to talk for a few minutes with the people of the United States about banking—with the comparatively few who understand the mechanics of banking but more particularly with the overwhelming majority who use banks for the making of deposits and the drawing of checks. I want to tell you what has been done in the last few days, why it was done, and what the next steps are going to be. I recognize that the many proclamations from State Capitols and from Washington, the legislation, the Treasury regulations, etc., couched for the most part in banking and legal terms should be explained for the benefit of the average citizen. I owe this in particular because of the fortitude and good temper with which everybody has accepted the inconvenience and hardships of the banking holiday. I know that when you understand what we in Washington have been about I shall continue to have your cooperation as fully as I have had your sympathy and help during the past week.

First of all let me state the simple fact that when you deposit money in a bank the bank does not put the money into a safe deposit vault. It invests your money in many different forms of credit—bonds, commercial paper, mortgages and many other kinds of loans. In other words, the bank puts your money to work to keep the wheels of industry and of agriculture turning around. A comparatively small part of the money you put into the bank is kept in currency—an amount which in normal times is wholly sufficient to cover the

cash needs of the average citizen. In other words the total amount of all the currency in the country is only a small fraction of the total deposits in all of the banks.

What, then, happened during the last few days of February and the first few days of March? Because of undermined confidence on the part of the public, there was a general rush by a large portion of our population to turn bank deposits into currency or gold.—A rush so great that the soundest banks could not get enough currency to meet the demand. The reason for this was that on the spur of the moment it was, of course, impossible to sell perfectly sound assets of a bank and convert them into cash except at panic prices far below their real value.

By the afternoon of March 3 scarcely a bank in the country was open to do business. Proclamations temporarily closing them in whole or in part had been issued by the Governors in almost all the states.

It was then that I issued the proclamation providing for the nation-wide bank holiday, and this was the first step in the Government's reconstruction of our financial and economic fabric.

The second step was the legislation promptly and patriotically passed by the Congress confirming my proclamation and broadening my powers so that it became possible in view of the requirement of time to extend the holiday and lift the ban of that holiday gradually. This law also gave authority to develop a program of rehabilitation of our banking facilities. I want to tell our citizens in every part of the Nation that the national Congress—Republicans and Democrats alike—showed by this action a devotion to public welfare and a realization of the emergency and the necessity for speed that it is difficult to match in our history.

The third stage has been the series of regulations permitting the banks to continue their functions to take care of the distribution of food and household necessities and the payment of payrolls.

This bank holiday while resulting in many cases in great inconvenience is affording us the opportunity to supply the currency necessary to meet the situation. No sound bank is a dollar worse off than it was when it closed its doors last Monday. Neither is any bank which may turn out not to be in a position for immediate opening. The new law allows the twelve Federal Reserve banks to issue additional currency on

good assets and thus the banks which reopen will be able to meet every legitimate call The new currency is being sent out by the Bureau of Engraving and Printing in large volume to every part of the country. It is sound currency because it is backed by actual, good assets.

A question you will ask is this—why are all the banks not to be reopened at the same time? The answer is simple. Your Government does not intend that the history of the past few years shall be repeated. We do not want and will not have another epidemic of bank failures.

As a result we start tomorrow, Monday, with the opening of banks in the twelve Federal Reserve bank cities—those banks which on first examination by the Treasury have already been found to be all right. This will be followed on Tuesday by the resumption of all their functions by banks already found to be sound in cities where there are recognized clearing houses. That means about 250 cities of the United States.

On Wednesday and succeeding days banks in smaller places all through the country will resume business, subject, of course, to the Government's physical ability to complete its survey. It is necessary that the reopening of banks be extended over a period in order to permit the banks to make applications for necessary loans, to obtain currency needed to meet their requirements and to enable the Government to make common sense checkups.

Let me make it clear to you that if your bank does not open the first day you are by no means justified in believing that it will not open. A bank that opens on one of the subsequent days is in exactly the same status as the bank that opens tomorrow.

I know that many people are worrying about State banks not members of the Federal Reserve System. These banks can and will receive assistance from member banks and from the Reconstruction Finance Corporation. These state banks are following the same course as the national banks except that they get their licenses to resume business from the state authorities, and these authorities have been asked by the Secretary of the Treasury to permit their good banks to open up on the same schedule as the national banks. I am confident that the state banking departments will be as careful as the National Government in the policy relating to the opening of banks and will follow the same broad policy.

It is possible that when the banks resume a very few people who have not recovered from their fear may again begin with-

drawals. Let me make it clear that the banks will take care of all needs—and it is my belief that hoarding during the past week has become an exceedingly unfashionable pastime. It needs no prophet to tell you that when the people find that they can get their money—that they can get it when they want it for all legitimate purposes—the phantom of fear will soon be laid. People will again be glad to have their money where it will be safely taken care of and where they can use it conveniently at any time. I can assure you that it is safer to keep your money in a reopened bank than under the mattress.

The success of our whole great national program depends, of course, upon the cooperation of the public—on its intelligent support and use of a reliable system.

Remember that the essential accomplishment of the new legislation is that it makes it possible for banks more readily to convert their assets into cash than was the case before. More liberal provision has been made for banks to borrow on these assets at the Reserve Banks and more liberal provision has also been made for issuing currency on the security of those good assets. This currency is not fiat currency. It is issued only on adequate security—and every good bank has an abundance of such security.

One more point before I close. There will be, of course, some banks unable to reopen without being reorganized. The new law allows the Government to assist in making these reorganizations quickly and effectively and even allows the Government to subscribe to at least a part of new capital which may be required.

I hope you can see from this elemental recital of what your government is doing that there is nothing complex, or radical in the process.

We had a bad banking situation Some of our bankers had shown themselves either incompetent or dishonest in their handling of the people's funds. They had used the money entrusted to them in speculations and unwise loans. This was of course not true in the vast majority of our banks but it was true in enough of them to shock the people for a time into a sense of insecurity and to put them into a frame of mind where they did not differentiate, but seemed to assume that the acts of a comparative few had tainted them all It was the Government's job to straighten out this situation and do it as quickly as possible—and the job is being performed.

I do not promise you that every bank will be reopened or that individual losses will not be suffered, but there will be no

losses that possibly could be avoided; and there would have been more and greater losses had we continued to drift. I can even promise you salvation for some at least of the sorely pressed banks. We shall be engaged not merely in reopening sound banks but in the creation of sound banks through reorganization.

It has been wonderful to me to catch the note of confidence from all over the country. I can never be sufficiently grateful to the people for the loyal support they have given me in their acceptance of the judgment that has dictated our course, even though all of our processes may not have seemed clear to them.

After all there is an element in the readjustment of our financial system more important than currency, more important than gold, and that is the confidence of the people. Confidence and courage are the essentials of success in carrying out our plan. You people must have faith; you must not be stampeded by rumors or guesses. Let us unite in banishing fear. We have provided the machinery to restore our financial system; it is up to you to support and make it work.

It is your problem no less than it is mine. Together we cannot fail.

Executive Order, March 18, 1933

By virtue of the authority vested in me by section 5 (b) of the act of October 6, 1917 (40 Stat. L. 411) as amended by the act of March 9, 1933, and by section 4 of the said act of March 9, 1933, and by virtue of all other authority vested in me, I hereby issue the following Executive order.

Whenever the appropriate authority having immediate supervision of any banking institution located in any State or place subject to the jurisdiction of the United States, which is a member of the Federal Reserve System and which has not been licensed by the Secretary of the Treasury to resume its usual banking functions, shall deem it necessary or advisable in order to conserve the assets of such banking institution for the benefit of the depositors or other creditors, such authority may, in accordance with the provisions of the applicable laws of such State or place, appoint such appropriate official as may be authorized under such laws to conserve the assets of such banking institutions pending further disposition of its business as provided by such laws.

This order shall not authorize any such member bank to reopen for the performance of usual and normal functions until it shall have received a license from the Secretary of the Treasury as provided in Executive order of March 10, 1933.

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE,
March 18, 1933.

Executive Order, April 5, 1933

By virtue of the authority vested in me by section 5 (b) of the act of October 6, 1917, as amended by section 2 of the act of March 9, 1933, entitled "An act to provide relief in the existing national emergency in banking, and for other purposes," in which amendatory act Congress declared that a serious emergency exists, I, Franklin D. Roosevelt, President of the United States of America, do declare that said national emergency still continues to exist and pursuant to said section do hereby prohibit the hoarding of gold coin, gold bullion, and gold certificates within the continental United States by individuals, partnerships, associations, and corporations and hereby prescribe the following regulations for carrying out the purposes of this order:

SECTION 1. For the purposes of this regulation, the term "hoarding" means the withdrawal and withholding of gold coin, gold bullion, or gold certificates from the recognized and customary channels of trade. The term "person" means any individual, partnership, association, or corporation.

SEC. 2. All persons are hereby required to deliver on or before May 1, 1933, to a Federal Reserve bank or a branch or agency thereof or to any member bank of the Federal Reserve System all gold coin, gold bullion, and gold certificates now owned by them or coming into their ownership on or before April 28, 1933, except the following:

(a) Such amount of gold as may be required for legitimate and customary use in industry, profession, or art within a reasonable time, including gold prior to refining and stocks of gold in reasonable amounts for the usual trade requirements of owners mining and refining such gold.

(b) Gold coin and gold certificates in an amount not exceeding in the aggregate $100 belonging to any one person; and gold coins having a recognized special value to collectors of rare and unusual coins.

(c) Gold coin and bullion earmarked or held in trust for a recognized foreign government or foreign central bank or the Bank for International Settlements.

(d) Gold coin and bullion licensed for other proper transactions (not involving hoarding) including gold coin and bullion imported for reexport or held pending action on applications for export licenses.

SEC. 3. Until otherwise ordered any person becoming the owner of any gold coin, gold bullion, or gold certificates after April 28, 1933, shall, within 3 days after receipt thereof, deliver the same in the manner prescribed in section 2; unless such gold coin, gold bullion or gold certificates are held for any of the purposes specified in paragraphs (a), (b), or (c) of section 2; or unless such gold coin or gold bullion is held for purposes specified in paragraph (d) of section 2 and the person holding it is, with respect to such gold coin or bullion, a licensee or applicant for license pending action thereon.

SEC. 4. Upon receipt of gold coin, gold bullion or gold certificates delivered to it in accordance with sections 2 or 3, the Federal Reserve bank or member bank will pay therefor an equivalent amount of any other form of coin or currency coined or issued under the laws of the United States.

SEC. 5 Member banks shall deliver all gold coin, gold bullion, and gold certificates owned or received by them (other than as exempted under the provisions of sec. 2) to the Federal Reserve banks of their respective districts and receive credit or payment therefor.

SEC. 6 The Secretary of the Treasury, out of the sum made available to the President by section 501 of the act of March 9, 1933, will in all proper cases pay the reasonable costs of transportation of gold coin, gold bullion or gold certificates delivered to a member bank or Federal Reserve bank in accordance with sections 2, 3, or 5 hereof, including the cost of insurance, protection, and such other incidental costs as may be necessary, upon production of satisfactory evidence of such costs. Voucher forms for this purpose may be procured from Federal Reserve banks.

SEC. 7. In cases where the delivery of gold coin, gold bullion, or gold certificates by the owners thereof within the time set forth above will involve extraordinary hardship or difficulty, the Secretary of the Treasury may, in his discretion, extend the time within which such delivery must be made. Applications for such extensions must be made in writing

under oath, addressed to the Secretary of the Treasury and filed with a Federal Reserve bank. Each application must state the date to which the extension is desired, the amount and location of the gold coin, gold bullion and gold certificates in respects of which such application is made and the facts showing extension to be necessary to avoid extraordinary hardship or difficulty.

Sec. 8. The Secretary of the Treasury is hereby authorized and empowered to issue such further regulations as he may deem necessary to carry out the purposes of this order and to issue licenses thereunder, through such officers or agencies as he may designate, including licenses permitting the Federal Reserve banks and member banks of the Federal Reserve System, in return for an equivalent amount of other coin, currency, or credit, to deliver, earmark, or hold in trust gold coin and bullion to or for persons showing the need for the same for any of the purposes specified in paragraphs (a), (c), and (d) of section 2 of these regulations.

Sec. 9. Whoever willfully violates any provision of this Executive order or of these regulations or of any rule, regulation, or license issued thereunder may be fined not more than $10,000, or, if a natural person, may be imprisoned for not more than 10 years, or both; and any officer, director, or agent of any corporation who knowingly participates in any such violation may be punished by a like fine, imprisonment, or both.

This order and these regulations may be modified or revoked at any time.

Franklin D. Roosevelt.

The White House,
April 5, 1933.

Executive Order, April 20, 1933

By virtue of the authority vested in me by section 5 (b) of the act of October 6, 1917, as amended by section 2 of the act of March 9, 1933, entitled "An act to provide relief in the existing national emergency in banking, and for other purposes," in which amendatory act Congress declared that a serious emergency exists, I, Franklin D Roosevelt, President of the United States of America, do declare that said national emergency still continues to exist and pursuant to said sec-

tion and by virtue of all other authority vested in me, do hereby issue the following Executive order:

1. Until further order, the earmarking for foreign account and the export of gold coin, gold bullion, or gold certificates from the United States or any place subject to the jurisdiction thereof are hereby prohibited, except that the Secretary of the Treasury, in his discretion and subject to such regulations as he may prescribe, may issue licenses authorizing the export of gold coin and bullion (a) earmarked or held in trust for a recognized foreign government or foreign central bank or the Bank for International Settlements, (b) imported for reexport or gold in reasonable amounts for usual trade requirements of refiners importing gold bearing materials under agreement to export gold, (c) actually required for the fulfillment of any contract entered into prior to the date of this order, by an applicant who in obedience to the Executive order of April 5, 1933, has delivered gold coin, gold bullion, or gold certificates, and (d) with the approval of the President, for transactions which he may deem necessary to promote the public interest.

2. Until further order, the Secretary of the Treasury is authorized, through any agency that he may designate, to investigate, regulate, or prohibit, under such rules and regulations as he may prescribe, by means of licenses or otherwise, any transactions in foreign exchange, transfers of credit from any banking institution within the United States or any place subject to the jurisdiction thereof to any foreign branch or office of such banking institution or to any foreign bank or banker, and the export or withdrawal of currency from the United States or any place subject to the jurisdiction of the United States, by any individual, partnership, association, or corporation within the United States or any place subject to the jurisdiction thereof; and the Secretary of the Treasury may require any individual, partnership, association, or corporation engaged in any transaction referred to herein to furnish under oath, complete information relative thereto, including the production of any books of account, contracts, letters, or other papers, in connection therewith in the custody or control of such individual, partnership, association, or corporation either before or after such transaction is completed.

3. The provisions relating to foreign exchange transactions contained in the Executive order of March 10, 1933,

shall remain in full force and effect except as amended or supplemented by this order and by regulations issued hereunder.

4. Applicants who have gold coin, gold bullion, or gold certificates in their possession, or who in obedience to the Executive order of April 5, 1933, have delivered gold coin, gold bullion, or gold certificates shall be entitled to licenses as provided in section 8 of said Executive order for amounts not exceeding the equivalent of such coin, bullion, or certificates held or delivered. The Secretary may in his discretion issue or decline to issue any other licenses under said Executive order, which shall in all other respects remain in full force and effect.

5. Whoever willfully violates any provision of this Executive order or of any rule, regulation or license issued thereunder may be fined not more than $10,000, or, if a natural person, may be imprisoned for not more than 10 years, or both; and any officer, director, or agent of any corporation who knowingly participates in any such violation may be punished by a like fine, imprisonment, or both.

This order may be modified or revoked at any time.

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE,
April 20, 1933.

Executive Order, August 28, 1933

By virtue of the authority vested in me by section 5 (b) of the act of October 6, 1917, as amended by section 2 of the act of March 9, 1933, entitled "An act to provide relief in the existing national emergency in banking and for other purposes," I, Franklin D. Roosevelt, President of the United States of America, do declare that a period of national emergency exists, and by virtue of said authority and of all other authority vested in me, do hereby prescribe the following provisions for the investigation and regulation of the hoarding, earmarking, and export of gold coin, gold bullion, and gold certificates by any person within the United States or any place subject to the jurisdiction thereof; and for the investigation and regulation of transactions in foreign exchange and transfers of credit and the export or withdrawal of currency from the United States or any place subject to the jurisdiction

thereof by any person within the United States or any place subject to the jurisdiction thereof.

SEC. 2. Definitions.—As used in this order the term "person" means an individual, partnership, association, or corporation, and the term "the United States" means the United States and any place subject to the jurisdiction thereof.

SEC. 3. Returns.—Within 15 days from the date of this order every person in possession of and every person owning gold coin, gold bullion, or gold certificates shall make under oath and file as hereinafter provided a return to the Secretary of the Treasury containing true and complete information relative thereto, including the name and address of the person making the return; the kind and amount of such coin, bullion, or certificates held and the location thereof; if held for another, the capacity in which held and the person for whom held, together with the post-office address of such person; and the nature of the transaction requiring the holding of such coin, bullion, or certificates and a statement explaining why such transaction cannot be carried out by the use of currency other than gold certificates; provided that no returns are required to be filed with respect to—

(a) Gold coin, gold bullion, and gold certificates in an amount not exceeding in the aggregate $100 belonging to any one person;

(b) Gold coin having a recognized special value to collectors of rare and unusual coin;

(c) Gold coin, gold bullion, and gold certificates acquired or held under a license heretofore granted by or under authority of the Secretary of the Treasury; and

(d) Gold coin, gold bullion, and gold certificates owned by Federal Reserve banks.

Such return required to be made by an individual shall be filed with the collector of internal revenue for the collection district in which such individual resides, or, if such individual has no legal residence in the United States, then with the collector of internal revenue at Baltimore, Md. Such return required to be made by a partnership, association, or corporation shall be filed with the collector of internal revenue of the collection district in which is located the principal place of business or principal office or agency of such partnership, association, or corporation, or, if it has no principal place of business or principal office or agency in the United States, then with the collector of internal revenue at Baltimore, Md.

Such return required to be made by an individual residing in Alaska shall be filed with the collector of internal revenue at Seattle, Wash Such return required to be made by a partnership, association, or corporation having its principal place of business or principal office or agency in Alaska shall be filed with the collector of internal revenue at Seattle, Wash.

The Secretary of the Treasury may grant a reasonable extension of time for filing a return, under such rules and regulations as he shall prescribe. No such extension shall be for more than 45 days from the date of this Executive order. An extension granted hereunder shall be deemed a license to hold for a period ending 15 days after the expiration of the extension.

The returns required to be made and filed under this section shall constitute public records; but they shall be open to public inspection only upon order of the President and under rules and regulations prescribed by the Secretary of the Treasury.

A return made and filed in accordance with this section by the owner of the gold coin, gold bullion, and gold certificates described therein, or his duly authorized agent, shall be deemed an application for the issuance under section 5 hereof of a license to hold such coin, bullion, and certificates.

SEC. 4. Acquisition of gold coin and gold bullion.—No person other than a Federal Reserve bank shall after the date of this order acquire in the United States any gold coin, gold bullion, or gold certificates except under license therefor issued pursuant to this Executive order, provided that member banks of the Federal Reserve System may accept delivery of such coin, bullion, and certificates for surrender promptly to a Federal Reserve bank, and provided further that persons requiring gold for use in the industry, profession, or art in which they are regularly engaged may replenish their stocks of gold up to an aggregate amount of $100, by acquisitions of gold bullion held under licenses issued under section 5 (b), without necessity of obtaining a license for such acquisitions.

The Secretary of the Treasury, subject to such further regulations as he may prescribe, shall issue licenses authorizing the acquisition of—

(a) Gold coin or gold bullion which the Secretary is satisfied is required for a necessary and lawful transaction for which currency other than gold certificates cannot be used, by an applicant who establishes that since March 9, 1933, he has

surrendered an equal amount of gold coin, gold bullion, or gold certificates to a banking institution in the continental United States or to the Treasurer of the United States;

(b) Gold coin or gold bullion which the Secretary is satisfied is required by an applicant who holds a license to export such an amount of gold coin or gold bullion issued under subdivisions (c) or (d) of section 6 hereof, and

(c) Gold bullion which the Secretary, or such agency as he may designate, is satisfied is required for legitimate and customary use in industry, profession, or art by an applicant regularly engaged in such industry, profession, or art, or in the business of furnishing gold therefor.

Licenses issued pursuant to this section shall authorize the holder to acquire gold coin and gold bullion only from the sources specified by the Secretary of the Treasury in regulations issued hereunder.

SEC. 5. Holding of gold coin, gold bullion, and gold certificates.—After 30 days from the date of this order no person shall hold in his possession or retain any interest, legal or equitable, in any gold coin, gold bullion, or gold certificates situated in the United States and owned by any person subject to the jurisdiction of the United States, except under license therefor issued pursuant to this Executive order; provided, however, that licenses shall not be required in order to hold in possession or retain an interest in gold coin, gold bullion, or gold certificates with respect to which a return need not be filed under section 3 hereof.

The Secretary of the Treasury, subject to such further regulations as he may prescribe, shall issue licenses authorizing the holding of—

(a) Gold coin, gold bullion, and gold certificates, which the Secretary is satisfied are required by the person owning the same for necessary and lawful transactions for which currency, other than gold certificates, cannot be used;

(b) Gold bullion which the Secretary, or such agency as he may designate, is satisfied is required for legitimate and customary use in industry, profession, or art by a person regularly engaged in such industry, profession, or art or in the business of furnishing gold therefor;

(c) Gold coin and gold bullion earmarked or held in trust since before April 20, 1933, for a recognized foreign government or foreign central bank or the Bank for International Settlements; and

(d) Gold coin and gold bullion imported for reexport or held pending action upon application for export licenses.

SEC. 6 Earmarking and export of gold coin and gold bullion.—After the date of this order no person shall earmark or export any gold coin, gold bullion, or gold certificates from the United States, except under license therefor issued by the Secretary of the Treasury pursuant to the provisions of this order.

The Secretary of the Treasury, in his discretion and subject to such regulations as he may prescribe, may issue licenses authorizing—

(a) The export of gold coin or gold bullion earmarked or held in trust since before April 20, 1933, for a recognized foreign government, foreign central bank, or the Bank for International Settlements;

(b) The export of gold, (i) imported for reexport, (ii) refined from goldbearing materials imported by the applicant under an agreement to export gold, or (iii) in bullion containing not more than five ounces of gold per ton;

(c) The export of gold coin or gold bullion to the extent actually required for the fulfillment of a contract entered into by the applicant prior to April 20, 1933, but not in excess of the amount of the gold coin, gold bullion, and gold certificates surrendered by the applicant on or after March 9, 1933, to a banking institution in the continental United States or to the Treasurer of the United States; and

(d) The earmarking for foreign account and/or export of gold coin or gold bullion, with the approval of the President, for transactions which the Secretary of the Treasury may deem necessary to promote the public interest.

SEC. 7. United States possessions—Shipments thereto.—The provisions of sections 3 and 5 of this order shall not apply to gold coin, gold bullion, or gold certificates which are situated in the Philippine Islands, American Samoa, Guam, Hawaii, Panama Canal Zone, Puerto Rico, or the Virgin Islands of the United States, and are owned by a person not domiciled in the continental United States. The provisions of section 4 shall not apply to acquisitions by persons within the Philippine Islands, American Samoa, Guam, Hawaii, Panama Canal Zone, Puerto Rico, or the Virgin Islands of the United States of gold coin or gold bullion which has not been taken or sent thereto since April 5, 1933, from the continental United States or any place subject to the jurisdiction thereof.

SEC 8. Until further order, the Secretary of the Treasury is authorized, through any agency that he may designate, to investigate, regulate, or prohibit, under such rules and regulations as he may prescribe, by means of licenses or otherwise, any transactions in foreign exchange, transfers of credit from any banking institution within the United States to any foreign branch or office of such banking institution or to any foreign bank or banker, and the export or withdrawal of currency from the United States, by any person within the United States; and the Secretary of the Treasury may require any person engaged in any transaction referred to herein to furnish under oath complete information relative thereto, including the production of any books of account, contracts, letters, or other papers, in connection therewith in the custody or control of such person either before or after such transaction is completed.

SEC. 9. The Secretary of the Treasury is hereby authorized and empowered to issue such regulations as he may deem necessary to carry out the purposes of this order. Such regulations may provide for the detention in the United States of any gold coin, gold bullion, or gold certificates sought to be transported beyond the limits of the continental United States, pending an investigation to determine if such coin, bullion, or certificates are held or are to be acquired in violation of the provisions of this Executive order. Licenses and permits granted in accordance with the provisions of this order and the regulations prescribed hereunder, may be issued through such officers or agencies as the Secretary may designate.

SEC. 10. Whoever willfully violates any provision of this Executive order or of any license, order, rule, or regulation issued or prescribed hereunder, shall, upon conviction, be fined not more than $10,000, or, if a natural person, may be imprisoned for not more than 10 years, or both; and any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment, or both

SEC. 11. The Executive orders of April 5, 1933, forbidding the hoarding of gold coin, gold bullion, and gold certificates, and April 20, 1933, relating to foreign exchange and the earmarking and export of gold coin or bullion or currency, respectively, are hereby revoked. The revocation of such prior Executive orders shall not affect any act done, or any right accruing or accrued, or any suit or proceeding had or com-

menced in any civil or criminal cause prior to said revocation, but all liabilities under said Executive orders shall continue and may be enforced in the same manner as if said revocation had not been made. This Executive order and any regulations or licenses issued hereunder may be modified or revoked at any time

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE,
August 28, 1933.

Executive Order, August 29, 1933

By virtue of the authority vested in me by section 5 (b) of the act of October 6, 1917, as amended by section 2 of the act of March 9, 1933, entitled "An act to provide relief in the existing national emergency in banking and for other purposes," I, Franklin D. Roosevelt, President of the United States of America, do declare that a period of national emergency exists, and by virtue of said authority and of all other authority vested in me, do hereby issue the following Executive order:

The Secretary of the Treasury is hereby authorized to receive on consignment for sale, subject to such rules and regulations and upon such conditions as he shall prescribe, gold recovered from natural deposits in the United States or any place subject to the jurisdiction thereof. Sales may be made:

(a) To persons licensed to acquire gold for use in the arts, industries or professions, or

(b) By export to foreign purchasers.

Such sales shall be made at a price which the Secretary shall determine to be equal to the best price obtainable in the free gold markets of the world after taking into consideration any incidental expenses such as shipping costs and insurance.

Such sales may be made through the Federal Reserve banks or such other agents as the Secretary may from time to time designate, and shall be subject to such charges as the Secretary may from time to time in his judgment determine.

Every person depositing gold for sale as provided herein shall be deemed to have agreed to accept as conclusive without any right of recourse or review, the determination of the Secretary or his duly authorized agent as to the amount due such person as a result of any sale.

Consignments shall be sold as nearly as may be in the order of their receipt.

The Secretary of the Treasury, in his discretion and subject to such regulations as he may prescribe, is hereby authorized to issue licenses permitting the export of articles fabricated from gold sold pursuant to this Executive order.

This Executive order may be modified or revoked at any time

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE,
August 29, 1933.

Executive Order, October 25, 1933

By virtue of the authority vested in me by section 5 (b) of the act of October 6, 1917, as amended by section 2 of the act of March 9, 1933, entitled "An act to provide relief in the existing national emergency in banking and for other purposes," I, Franklin D. Roosevelt, President of the United States of America, do declare that a period of national emergency exists, and by virtue of said authority and of all other authority vested in me, do hereby issue the following Executive order:

SECTION 1. The Executive order of August 29, 1933, relating to the sale and export of gold recovered from natural deposits, is hereby revoked; provided, however, that the Secretary of the Treasury is authorized to sell in accordance therewith gold received on consignment for sale on or before the date of this Executive order.

SEC. 2. The United States mints and assay offices are hereby authorized, subject to such regulations as may from time to time be prescribed by the Secretary of the Treasury, to receive on consignment gold which the mint or assay office to which the gold is delivered is satisfied has been recovered from natural deposits in the United States or any place subject to the jurisdiction thereof.

SEC. 3. The Reconstruction Finance Corporation is authorized, subject to such regulations as may from time to time be prescribed by the Secretary of the Treasury, to acquire gold which has been received on consignment by a United States mint or assay office, and to hold, earmark for foreign account, export, or otherwise dispose of such gold.

SEC 4. The Executive order of August 28, 1933, relating to the hoarding, export, and earmarking of gold coin, bullion, or currency, and to transactions in foreign exchange, is hereby amended to permit, subject to such regulations as may from time to time be prescribed by the Secretary of the Treasury, the export of articles fabricated from gold.

SEC. 5. The Secretary of the Treasury is hereby authorized and empowered to issue such regulations as he may deem necessary to carry out the purpose of this Executive order.

SEC. 6. This Executive order and any regulations issued hereunder may be modified or revoked at any time.

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE,
October 25, 1933.

Regulations Issued by the Secretary of the Treasury in Connection with the Banking Holiday

No. 1

TREASURY DEPARTMENT

FOR IMMEDIATE RELEASE
Monday, March 6, 1933.

Under the authority conferred upon him by the President's Proclamation of March 6, 1933, declaring a bank holiday, the Secretary of the Treasury has authorized all Federal reserve banks and all other banking institutions to make change by the exchange of currency and/or coin of various denominations for an exactly equal amount of currency and/or coin of other denominations, but no gold or gold certificates shall be paid out in making change.

No. 2

TREASURY DEPARTMENT

FOR IMMEDIATE RELEASE
March 6, 1933.

Under the authority conferred upon him by the President's Proclamation of March 6, 1933, declaring a bank holiday, the Secretary of the Treasury has issued the following regulation:

> "All banking institutions may allow their customers free access to the safety deposit boxes and safes rented to such customers."

No. 3

TREASURY DEPARTMENT FOR IMMEDIATE RELEASE
Monday, March 6, 1933.

Under the authority conferred upon him by the President's Proclamation of March 6, 1933, declaring a bank holiday, the Secretary of the Treasury has issued the following regulation:

> "All banking institutions may upon request return intact and without restriction all cash, checks, and other items delivered for deposit or collection which were received after the last closing of business hours and have not been entered on the books of such banking institution."

No. 4

TREASURY DEPARTMENT FOR IMMEDIATE RELEASE
March 6, 1933.

Under the authority conferred upon him by the President's Proclamation of March 6, 1933, declaring a bank holiday, the Secretary of the Treasury has issued the following regulation:

> "All banking institutions may continue, in accordance with usual practice, to cash checks drawn on the Treasurer of the United States, provided that no gold or gold certificates shall be paid out."

No. 5

TREASURY DEPARTMENT FOR IMMEDIATE RELEASE
March 6, 1933.

Under the authority conferred upon him by the President's Proclamation of March 6, 1933, declaring a bank holiday, the Secretary of the Treasury has issued the following regulation:

> "Any banking institution may accept payments in cash or any other form acceptable to it on account or in settlement of obligations payable at or to such institution."

No. 6

TREASURY DEPARTMENT FOR IMMEDIATE RELEASE
March 6, 1933.

Under the authority conferred upon him by the President's Proclamation of March 6, 1933, declaring a bank holiday, the Secretary of the Treasury has issued the following regulation:

> "Any banking institution may handle and collect drafts or other documents in connection with the shipment,

transportation or delivery of food or feed products, may pay out or permit the withdrawal of such amounts of currency as shall be necessary in the judgment of such banking institution in connection with such shipment, transportation or delivery of food or feed products, and may perform such other banking functions as may be essential to the shipment, transportation or delivery of food or feed products, provided, however, that no banking institution shall pay out or permit the withdrawal of any gold or gold certificates.''

No. 7

TREASURY DEPARTMENT FOR IMMEDIATE RELEASE
March 6, 1933.

Under the authority conferred upon him by the President's Proclamation of March 6, 1933, declaring a bank holiday, the Secretary of the Treasury has issued the following regulations:

''Deposits heretofore received by any banking institution pursuant to agreement or legislative authority providing for segregation and for repayment without restriction may be paid on demand. Any banking institution which was lawfully engaged in the business of receiving deposits prior to March 6, 1933, may create special trust accounts for the receipt of new deposits which shall be subject to withdrawal on demand without any restriction or limitation and shall be kept separately in cash or on deposit in Federal Reserve Banks or invested in obligations of the United States. Federal reserve banks may open special accounts on their books for their member banks and temporarily for non-member banks and may receive in such special accounts the proceeds of new deposits received by such banking institutions. In making deposits with the Federal reserve bank pursuant to this regulation the depositing bank shall in the case of each deposit indicate to the Federal reserve bank by symbol or otherwise that the funds so deposited represent new deposits made under this regulation. Upon receipt of such deposits such Federal reserve bank shall credit the same in the special account of the depositing bank herein provided for and shall hold the same solely for repayment to such bank. Federal reserve banks shall permit the withdrawal of any part or all of such new deposits by the depositing bank without restrictions provided that the depositing bank shall in such order or request for withdrawal indicate to the Federal

reserve bank by symbol or otherwise that such withdrawal is to be made from such special account, provided however that no banking institution shall pay out or permit the withdrawal of any gold or gold certificates."

No. 8

TREASURY DEPARTMENT

FOR IMMEDIATE RELEASE
March 7, 1933.

Under the authority conferred upon him by the President's Proclamation of March 6, 1933, declaring a bank holiday, the Secretary of the Treasury has issued the following regulation:

"Where settlement for checks charged by drawee institutions to the drawers' accounts on its books on or before March 4, 1933 is incomplete, settlement may be completed where such settlement does not involve the payment of money or currency."

No. 9

TREASURY DEPARTMENT

FOR IMMEDIATE RELEASE
March 7, 1933.

Under the authority conferred upon him by the President's Proclamation of March 6, 1933, declaring a bank holiday, the Secretary of the Treasury has issued the following regulation:

"Any banking institution may deliver to the person entitled thereto properly identified documents and securities held by such institution for safekeeping."

No. 10 as Amended

FOR THE PRESS

FOR IMMEDIATE RELEASE
March 10, 1933.

STATEMENT BY SECRETARY OF THE TREASURY WOODIN

Under the terms of the Act of March 9, 1933, immediate action has been taken by the President and the Secretary of the Treasury which will make possible the resumption of banking operations in substantial volume at a very early date. Pending such resumption the vital needs of communities must be met. Attention of all banking institutions is called to Regulation 10 which is still in force and which as amended provides for cooperation between banks in different communities and reads as follows:

"Any national or State banking institution may exercise its usual banking functions to such extent as its situ-

ation shall permit and as shall be absolutely necessary to meet the needs of its community for food, medicine, other necessities of life, for the relief of distress, for the payment of usual salaries and wages, for necessary current expenditures for the purpose of maintaining employment, and for other similar essential purposes. Banking institutions may carry out such transactions as may be necessary to aid banking institutions in other communities to meet the necessities set forth above. Provided, however, that (1) every precaution shall be taken to prevent hoarding or the unnecessary withdrawal of currency; (2) No State banking institution shall engage in any transaction under this regulation which is in violation of State or Federal law or of any regulation issued thereunder; (3) No National banking association shall engage in any transaction under this section which is in violation of any Federal law or of any order or regulation issued by the Comptroller of the Currency; and (4) No gold or gold certificates shall be paid out. Each banking institution and its directors and officers will be held strictly accountable for faithful compliance with the spirit and purpose as well as the letter of this regulation.

"Federal reserve banks may carry on such functions as may be necessary to facilitate transactions authorized by this regulation.

"In order to enable member banks of the Federal reserve system to meet the needs of their respective communities to the extent authorized by this regulation Federal reserve banks may make advances to such member banks under the conditions set forth in Section 10 (b) of the Federal Reserve Act as amended by the act of March 9, 1933, and in accordance with authority granted by the Federal Reserve Board.

"In addition, in order to enable individuals, partnerships and corporations to meet their immediate payroll requirements, Federal reserve banks may make temporary advances to such individuals, partnerships and corporations on their promissory notes secured by direct obligations of the United States in accordance with authority granted by the Federal Reserve Board."

No. 11

TREASURY DEPARTMENT — FOR IMMEDIATE RELEASE
March 7, 1933.

Under the authority conferred upon the Secretary of the Treasury by the President's Proclamation of March 6, 1933,

declaring a bank holiday, the Secretary of the Treasury announces that any bank having a branch in a foreign country may deposit collateral in the United States to secure advances to such branch in a foreign country and any bank having a branch in an insular possession of the United States may deposit United States Government securities or other collateral for a similar purpose when under the President's Proclamation advances of local currency in the insular possession may lawfully be made.

No. 12

TREASURY DEPARTMENT FOR IMMEDIATE RELEASE
March 7, 1933.

Under the authority conferred upon him by the President's Proclamation of March 6, 1933, declaring a bank holiday, the Secretary of the Treasury has issued the following regulations:

"Clearing house associations and other associations organized to provide an adequately secured medium of temporary exchange, are hereby permitted to issue certificates against sound assets of banking institutions, such certificate to be deliverable by each institution to its creditors and depositors on a pro rata basis, provided, however, that no such certificates shall be issued before Friday, March 10, 1933, without the consent of the Secretary of the Treasury addressed to the clearing house or other association proposing to issue such certificates, and further provided that this permission may be revoked in the event that a national plan to meet the existing emergency is proposed by the Secretary of the Treasury if in his opinion the success of such plan would be inconsistent with the operation of the certificate plan."

No. 13

TREASURY DEPARTMENT FOR IMMEDIATE RELEASE
March 7, 1933.

Under the authority conferred upon him by the President's Proclamation of March 6, 1933, declaring a bank holiday, the Secretary of the Treasury has issued the following regulation:

"Any banking institution lawfully engaged in the business of acting as trustee, executor, administrator, registrar of stocks and bonds, transfer agent, guardian of estates, assignee, receiver, committee of estates of luna-

ties, or in any other fiduciary capacity may continue to transact such business in the normal and usual manner; provided that in the conduct of said business, except as may be permitted by other regulations of the Secretary of the Treasury, such banking institution shall not pay out or permit the withdrawal of coin or currency nor withdraw any trust or fiduciary funds on deposit with any other department of the bank."

No. 14

TREASURY DEPARTMENT FOR IMMEDIATE RELEASE
March 7, 1933.

Under the authority conferred upon him by the President's Proclamation of March 6, 1933, declaring a bank holiday, the Secretary of the Treasury has issued the following regulation:

"Federal reserve banks are authorized to conduct their normal and usual operations as fiscal agents of the United States in transactions pertaining to the exchange of obligations of the United States, such as making exchange of denominations, exchanging coupon for registered bonds, and vice versa, receiving registered bonds for transfer and effecting C. P. D. transactions."

No. 15

TREASURY DEPARTMENT FOR IMMEDIATE RELEASE
March 8, 1933.

Under the authority conferred upon him by the President's Proclamation of March 6, 1933, declaring a bank holiday, the Secretary of the Treasury has issued the following regulation:

"The permission granted in Regulation Number 7 that deposits heretofore received by any banking institution pursuant to agreement or legislative authority providing for segregation and repayment without restriction may be paid on demand, includes any bank in which any such deposits have been redeposited by or on behalf of the receiving bank in accordance with such agreement or legislative authority."

No. 16

TREASURY DEPARTMENT FOR IMMEDIATE RELEASE
March 10, 1933.

Under the authority conferred upon him by the President's Proclamation of March 6, 1933, as extended, declaring a bank

holiday, the Secretary of the Treasury has issued the following regulation:

"All banking institutions are hereby authorized to take such steps and carry through such transactions as may be necessary to complete for their own account, or the account of their customers, payment on any subscriptions for Treasury bills of the United States for which payment was due on March 6, 1933."

W. H. WOODIN
Secretary of the Treasury.

No. 17

TREASURY DEPARTMENT — FOR IMMEDIATE RELEASE
March 10, 1933.

Under the authority conferred upon him by the President's Proclamations of March 6 and March 9, 1933, declaring and continuing a bank holiday, the Secretary of the Treasury has issued the following regulation:

"Any banking institution may, when the owners consent thereto, pay checks issued prior to March 6, 1933, and received in due course of business by the drawee banking institution, by charging the amounts thereof to the accounts of the drawers and crediting such amounts to the accounts of such owners on the books of the drawee banking institution."

No. 18

TREASURY DEPARTMENT — FOR IMMEDIATE RELEASE
March 11, 1933.

Under the authority conferred upon him by the President's Proclamations of March 6, 1933, and of March 9, 1933, declaring and continuing a bank holiday, the Secretary of the Treasury has issued the following regulation:

"All banking institutions are hereby authorized to subscribe and pay for any United States Government obligations which may be offered for subscription and sale by the Secretary of the Treasury. Federal Reserve Banks may carry on such functions as may be necessary to facilitate such transactions as are authorized by this regulation.

"All Federal Reserve Banks are authorized to redeem matured obligations of the United States and to cash matured coupons provided no gold or gold certificates shall be paid out."

No. 19

TREASURY DEPARTMENT FOR IMMEDIATE RELEASE
March 11, 1933.

Under the authority conferred upon him by the President's Proclamations of March 6, 1933, and of March 9, 1933, declaring and continuing a bank holiday, the Secretary of the Treasury has issued the following regulation:

"Except as otherwise prohibited by law, banking institutions may exercise their normal and usual functions in permitting substitution for or release of collateral held by them, provided other collateral or cash of equal or greater value is received in exchange therefor."

No. 20

TREASURY DEPARTMENT FOR IMMEDIATE RELEASE
March 11, 1933.

Under the authority conferred upon him by the President's Proclamations of March 6, 1933, and of March 9, 1933, declaring and continuing a bank holiday, the Secretary of the Treasury has issued the following regulation:

"All Federal Reserve Banks and their Branches and Agencies may open March 13, 1933, and may remain open for the performance of all usual and normal banking functions except as prohibited by the Executive Order issued by the President on March 10, 1933, and any further orders or regulations hereafter issued."

No. 21

TREASURY DEPARTMENT FOR IMMEDIATE RELEASE
March 11, 1933.

Under the authority conferred upon him by the President's Proclamations of March 6, 1933, and of March 9, 1933, declaring and continuing a bank holiday, the Secretary of the Treasury has issued the following regulation:

"Banking institutions which are not members of the Federal Reserve System or organized under the laws of the United States and which are not under the immediate supervision of any State authority may, on and after March 13, 1933, carry on their normal and usual functions, except as otherwise prohibited and except that no such institutions shall pay out any gold coin, gold bullion or gold certificates, unless authorized by the Secretary

of the Treasury, nor allow withdrawal of any currency for hoarding, nor engage in any transaction in foreign exchange except such as may be undertaken for legitimate and normal business requirements, for reasonable traveling and other personal requirements, and for fulfillment of contracts entered into prior to March 6, 1933."

No. 22

TREASURY DEPARTMENT — FOR IMMEDIATE RELEASE

March 11, 1933.

Under the authority conferred upon him by the President's Proclamations of March 6, 1933, and of March 9, 1933, declaring and continuing a bank holiday, the Secretary of the Treasury has issued the following regulation:

"All Federal land banks, Federal intermediate credit banks, joint stock land banks, Federal home loan banks, regional agricultural credit corporations and the Reconstruction Finance Corporation are hereby permitted to open at 9 o'clock, A. M., Monday, March 13, 1933, to perform their usual banking functions except to the extent prohibited by the executive order of the President of the United States, issued March 10, 1933, by Federal or State law, or as may hereafter be limited or prohibited by regulations promulgated by the Secretary of the Treasury.

"This permission, as to each of the foregoing banking institutions, may be revoked in whole or in part by the Secretary of the Treasury at any time, and is granted as to each such institution upon the express condition that such institution shall deliver, within thirty days from the date hereof, to the Treasurer of the United States or to a Federal Reserve Bank or a Federal Reserve branch bank of the district in which it is located, all gold coin, gold bullion, and gold certificates owned by it, and receive payment in other forms of coin or in currency."

Amendment to No. 22

TREASURY DEPARTMENT — FOR IMMEDIATE RELEASE

March 13, 1933.

Regulation No. 22 issued March 11, 1933, under the authority conferred upon me by the President's Proclamations of March 6, 1933 and of March 9, 1933, declaring and continuing a bank holiday is hereby amended so that the first paragraph thereof shall read as follows:

"All Federal land banks, Federal intermediate credit banks, joint stock land banks, Federal home loan banks,

Corporations organized under Section 25(a) of the Federal Reserve Act, regional agricultural credit corporations and the Reconstruction Finance Corporation are hereby permitted to open at 9 o'clock, A. M., Monday, March 13, 1933, to perform their usual banking functions except to the extent prohibited by the executive order of the President of the United States, issued March 10, 1933, by Federal or State law, or as may hereafter be limited or prohibited by regulations promulgated by the Secretary of the Treasury."

W. H. WOODIN
Secretary of the Treasury.

No. 23

TREASURY DEPARTMENT

FOR IMMEDIATE RELEASE
March 12, 1933.

Under the authority conferred upon me by the President's Proclamations of March 6th and March 9th and Executive Order of the President of the United States, dated March 10, 1933, I hereby issue the following regulation governing all Banking Institutions whether or not licensed to carry on usual and normal functions by the Secretary of the Treasury or appropriate State authority:

"No banking institution shall permit any withdrawal by any person when such institution, acting in good faith, shall deem that the withdrawal is intended for hoarding. Any banking institution, before permitting the withdrawal of large or unusual amounts of currency, may require from the person requesting such withdrawal, a full statement under oath of the purpose for which the currency is requested."

W. H. WOODIN
Secretary of the Treasury.

No. 24

TREASURY DEPARTMENT

FOR IMMEDIATE RELEASE
March 12, 1933.

Under the authority conferred upon him by the President's Proclamations of March 6, 1933 and of March 9, 1933, declaring and continuing a bank holiday, the Secretary of the Treasury has issued the following regulations:

"All banking institutions may cash official drafts drawn upon the Secretary of State for payment of salaries,

traveling and other contingent expenses but not for personal account, and remit the amounts thereof to the banks from which the drafts are received, provided that no gold or gold certificates shall be paid out."

W. H. WOODIN
Secretary of the Treasury.

No. 25

TREASURY DEPARTMENT

FOR IMMEDIATE RELEASE
March 13, 1933.

Under the authority conferred upon him by the President's Proclamations of March 6, 1933, and March 9, 1933, declaring and continuing a bank holiday, the Secretary of the Treasury has issued the following regulation:

"Pending the determination by the Treasury Department of a suitable procedure for licensing the delivery of gold for use in trade, profession or art, Federal Reserve Banks are hereby authorized to deliver upon request therefor gold in amounts deemed by such bank to be reasonably required for legitimate and customary uses in trade, profession or art, provided such request is accompanied by affidavit of the person requesting such gold stating the amount of unmanufactured gold on hand and the facts making it necessary to obtain such gold for the purpose of maintaining employment.

"All banks licensed to open for usual and normal functions are permitted to carry out any transaction necessary to complete the delivery of any gold authorized by any Federal Reserve Bank to be delivered in accordance with such request."

W. H. WOODIN
Secretary of the Treasury.

No. 26

TREASURY DEPARTMENT

FOR IMMEDIATE RELEASE
March 13, 1933.

Under the authority conferred upon him by the President's Proclamations of March 6, 1933, and of March 9, 1933, declaring and continuing a bank holiday, the Secretary of the Treasury has issued the following regulation:

"All banking institutions may issue drafts transferring credits from any place in the United States to any other

place in the United States and from any place in the United States to any place in a foreign country in connection with payments for domestic and foreign patent, trademark and design application fees, and in payment for domestic and foreign patent and trademark taxes and renewals No gold or gold certificates shall be paid out, withdrawn, or exported under this regulation."

W. H. WOODIN
Secretary of the Treasury.

No. 27

TREASURY DEPARTMENT FOR IMMEDIATE RELEASE
March 18, 1933.

Under authority conferred upon him by the President's Proclamations of March 6, 1933, and of March 9, 1933, declaring and continuing a bank holiday, and the Executive Order of March 10, 1933, the Secretary of the Treasury has issued the following regulation:

"Any State banking institution which is a member of the Federal Reserve System and which is not licensed by the Secretary of the Treasury to reopen for the performance of usual banking functions may, with the approval of the appropriate State authority having immediate supervision of such banking institution, permit withdrawals by depositors and make payments to creditors of such percentage of the amounts due to them (not exceeding 5%) as it may determine, provided that at or before the time of such withdrawal or payment it shall set aside and make available for such purpose a fund for the benefit of and sufficient to pay to all depositors and creditors the percentage so determined.

"This regulation shall not in any way affect any right created by Regulation No. 7 nor limit or restrict any payment thereby authorized.

"Any right to authorize withdrawals or payments under the terms of this regulation shall terminate upon the appointment of any conservator, receiver or other appropriate State official taking charge of the affairs of such banking institutions."

W. H. WOODIN
Secretary of the Treasury.

No. 28

TREASURY DEPARTMENT FOR IMMEDIATE RELEASE

March 18, 1933.

Under authority conferred upon him by the President's Proclamations of March 6, 1933, and of March 9, 1933, declaring and continuing a bank holiday, the Secretary of the Treasury has issued the following regulation:

> "After the close of business on March 18, 1933, Treasury Regulation No. 6 and Treasury Regulation No. 10, as amended, shall be without force or effect to authorize any banking transaction therein referred to."

W. H. WOODIN
Secretary of the Treasury.

No. 29

TREASURY DEPARTMENT FOR IMMEDIATE RELEASE

March 21, 1933.

Under the authority conferred upon him by the President's Proclamations of March 6 and of March 9, 1933, declaring and continuing a bank holiday, the Secretary of the Treasury has issued the following regulation:

> "Any banking institution which is a member of the Federal Reserve System and is not licensed to perform usual banking functions may rediscount or pledge with another banking institution renewals of notes which were previously rediscounted or pledged with such other banking institution."

W. H. WOODIN
Secretary of the Treasury.

No. 30

TREASURY DEPARTMENT FOR IMMEDIATE RELEASE

March 28, 1933.

Under the authority conferred upon him by the President's Proclamations of March 6, 1933, and of March 9, 1933, declaring and continuing a bank holiday, the Secretary of the Treasury has issued the following regulation:

> "Banking institutions which are members of the Federal Reserve System and of which actual possession and control have been taken (a) by conservators appointed pursuant to the Act of March 9, 1933, or (b) by appro-

priate State officials appointed pursuant to State law, as permitted by the President's Executive Order of March 18, 1933, are permitted to transact such limited banking functions as may be authorized in accordance with law by the Comptroller of the Currency, in the case of national banks, or by the appropriate State officials, in the case of State member banks; *provided*, however, that no such banking institution shall reopen for the performance of its usual and normal functions until it shall have received a license from the Secretary of the Treasury.

"This regulation shall not authorize any transaction with respect to the export or paying out of gold, or gold certificates, withdrawal of currency for hoarding or transactions in foreign exchange prohibited or restricted by the Executive Order of March 10, 1933."

W. H. WOODIN
Secretary of the Treasury.

No. 31

TREASURY DEPARTMENT FOR IMMEDIATE RELEASE
March 30, 1933.

Under the authority conferred upon him by the President's Proclamations of March 6 and of March 9, 1933, declaring and continuing a bank holiday, the Secretary of the Treasury has issued the following regulation:

"Any banking institution which is a member of the Federal Reserve System and is not licensed to perform usual banking functions, but which is duly authorized to engage in the business of acting as trustee, executor, administrator, registrar of stocks and bonds, transfer agent, guardian of estates, assignee, receiver, committee of estates of lunatics, or in any other fiduciary capacity, may transact such business in the normal and usual manner and may make payments on account of the principal or income of trust or other fiduciary funds to the persons entitled thereto; *provided*, that, except to the extent permitted by other Emergency Banking Regulations, no such banking institution shall withdraw or pay out any trust or other fiduciary funds on deposit with any other department of such banking institution or make any other payment in connection with any trust or other fiduciary funds which would operate to discharge, as a whole or in part, any indebtedness, as distinguished from any trust or other fiduciary duty, of such banking institution.

"This regulation supersedes Emergency Banking Regulation No. 13 of March 7, 1933, which is hereby revoked."

W. H. WOODIN
Secretary of the Treasury.

No. 32

TREASURY DEPARTMENT

FOR IMMEDIATE RELEASE
March 30, 1933.

Under the authority conferred upon him by the President's Proclamations of March 6 and March 9, 1933, declaring and continuing a bank holiday, the Secretary of the Treasury has issued the following regulation:

"Any State bank which is a member of the Federal Reserve System, and is not licensed by the Secretary of the Treasury to perform usual banking functions, may permit withdrawals of deposits which are lawfully secured by collateral, *provided,* that such withdrawals are (a) permissible under applicable law, (b) duly authorized by the Board of Directors of such bank, upon such terms with respect to the release of collateral as will fully protect all depositors and other creditors against the creation of any preferences, and (c) approved by the appropriate State authority having supervision of such bank.

"Any such bank is authorized to carry on such usual banking functions as may be essential to allow the withdrawals permitted by this regulation, subject to the provisions and restrictions above set forth and except as otherwise prohibited."

W. H. WOODIN
Secretary of the Treasury.

BANK FAILURES UNDER PRESIDENT HOOVER

YEAR	(year ending October 31) NATIONAL BANK FAILURES		(year ending Dec. 31) STATE AND PRIVATE BANK FAILURES		TOTAL OF ALL BANK FAILURES	
	NUMBER	DEPOSITS	NUMBER	DEPOSITS	NUMBER	DEPOSITS
1929	38	$20,419,502	485	$160,552,000	523	$180,971,502
1930	88	49,707,145	1191	682,917,000	1279	732,624,145
1931	357	361,976,551	1885	1,251,498,000	2242	1,613,474,551
1932	322	250,494,710	1180	501,476,000	1502	751,970,710
1933	435	780,793,809	383	142,158,000	818	922,951,809
TOTAL NATIONAL BANK FAILURES	1240					
TOTAL DEPOSITS OF THESE BANKS		$1,463,391,717				
TOTAL STATE AND PRIVATE BANK FAILURES			5124			
TOTAL DEPOSITS OF THESE BANKS				$2,738,601,000		
TOTAL NUMBER OF ALL BANK FAILURES					6364	
TOTAL DEPOSITS INVOLVED IN ALL BANK FAILURES						$4,201,992,717

BANK FAILURES UNDER PRESIDENT ROOSEVELT

YEAR	NATIONAL NUMBER	NATIONAL DEPOSITS	STATE AND PRIVATE NUMBER	STATE AND PRIVATE DEPOSITS	TOTAL NUMBER	TOTAL DEPOSITS
1933	3	$976,000	170	$128,388,000	173	$129,364,000
1934	1	41,950	56	36,897,000	57	36,938,950
1935	4	5,398,802	30	4,786,000	34	10,184,802
1936	0	—	43	10,905,000	43	10,905,000
1937	4	4,294,296	52	12,021,000	56	16,315,296
TOTAL NATIONAL BANK FAILURES	12					
TOTAL DEPOSITS OF THESE BANKS		$10,711,048				
TOTAL STATE AND PRIVATE BANK FAILURES			351			
TOTAL DEPOSITS OF THESE BANKS				$192,997,000		
TOTAL NUMBER OF ALL BANK FAILURES					363	
TOTAL DEPOSITS INVOLVED IN ALL BANK FAILURES						$203,708,048

Recommendations for Code of Ethics for Banks by J. F. T. O'Connor, Comptroller of the Currency

Gibbon says the richest legacy ever left by one civilization to another is the Justinian Code. This monumental code sets up the principle that the inherent duties of mankind are imposed by their public and private relations, and teaches that sin is the object of theology, vice the object of ethics and crime the object of jurisprudence; hence, our usage of the term ethics as a "system of moral principles."

Indications of this reasoning are noted in the earliest important code preserved to us, that of Hummurabi, a Babylonian king of 2050 B. C., and the teachings as well as the writings of other well known ancient people These serve to establish firmly the concept that ethics govern our relations with our fellow man in that broad field not covered by either Divine or Profane law.

You appreciate that a Code of Ethics, then, will contemplate the moral obligations of a bank rather than its legal rights and obligations. The latter are covered, generally speaking, by law, regulations, Clearing House Association rules and the like. The code, however, must touch on the spirit of all these, as well as upon fundamental business principles.

Inasmuch as a bank is an artificial person, its ethics and actions can be only those of the natural persons responsible for its operation. Therefore, in discussing ethics the terms "banks" and "bankers" are interchangeable.

A Code of Ethics for banks will contain a statement of the duties owed to the customer, to the profession and to the community at large Generally speaking, the duties of a banker are founded on the highest standards of patriotism, justice and honor and are dictated by the collective conscience of the banking fraternity. Bankers, the same as members of other professions, should take the initiative in defining and interpreting those rules of conduct by which the profession is to be judged. Therefore, the code should be dictated by the common mind of those responsible for the operation of banks and should be expressive of their ideals.

In formulating such a code the particular duties of banks in varying situations will be presented for consideration. The resulting expression will reflect the general viewpoint in the light of fundamental legal and moral principles. No bank is under legal obligation to accept any business offered, but

banks are morally obligated to serve their customers according to their worth, their character and the quality of their business. An ideal code will prescribe the aim of the bank to serve at all times the legitimate needs of its customers and of the community in the expectation that a fair return will accrue to its owners. A bank operated under such a code could neither be a warehouse nor a bucket shop. The code will set up the principle that the bank's participation in any business transaction will be determined on the basis of its merit uninfluenced by personal considerations or official connection. The bank will not seek to promote its business by any type of advertising which constitutes an implied reflection upon other institutions. Neither will it by overemphasis, extravagance of statement or by artificial setting create any false or erroneous impression respecting its stability or service. The code would recognize the right to advertise.

Subterfuge and indirection, whether practiced through public statement, with customers or with supervising authorities will be abhorrent to the code. Good citizenship will be fostered, but this implies that no privilege is claimed that is not accorded to citizens in general. It will recognize that any act against the common good is an immoral act. Such an act violates the Golden Rule. It will not countenance evasion of the law or of the rules of regulatory authorities. It will declare that banks must strive to comply honorably with t] spirit of all law and regulations applicable to their busines

Touching more specifically some of the actual operations banking consideration will be given to the following: Se dealing and policy loans, discrimination both for and again directors and stockholders on account of their interest in the bank; refraining from volunteering advice with respect to financial matters; comity with the legal profession, which suggests refraining from giving legal advice even when requested and furnishing the names of the best available attorneys from which a customer may make a choice; proper charges for services rendered, with recognition that critical situations do not justify exorbitant charges or confiscatory practices; refraining from rendering gratuitous service beyond that dictated by the general rules of courtesy, cooperation and the sound business judgment of the banking fraternity; refraining from taking advantage of competing institutions by reason of their capital limitations. Borrowing or rediscounting

should be recognized as a proper function of a bank and no reflecting comment by advertisement or otherwise will be made by any banker with respect to its absence in his bank or its presence in a competing institution. Promotional enterprises will not be encouraged through the use of the name of the bank even as a "designated depository."

Information should be volunteered to the proper supervising authorities rather than withheld either because the direct question is not asked or because it may be asked in such a manner that an evasive reply can be given. No attempt should ever be made to convey the impression that unusual influence can be exerted with public officials because of a personal relationship or otherwise, and all transactions with such officials should be handled with meticulous care. Personal opinion or bias, political or otherwise, should never be a factor in any business relationship. The banker with the proper sense of honor and duty will in no circumstances ever use his official position for personal gain or advantage. He will scrupulously refrain from dealing with known criminals. He will not personally engage or willingly permit his bank to engage in unsound or hazardous practices. Except in strict conformity to the facts, he will never attribute any course of action to any comment, requirement, or classification by an examiner or any authority whose duty it is to supervise the affairs of his bank.

The "Statement of Principles of Trust Institutions," adopted in 1933 by the American Bankers' Association, should be incorporated in its entirety as applicable to all banks operating a trust department.

When evils are apparent they are corrected by penal statutes, either State or Federal. In my opinion a code of banking ethics which conforms to the highest business standards, properly enforced, will make unnecessary many such statutes and will make banking a profession rather than a business.

Letter of Resignation of J. F. T. O'Connor as Comptroller of the Currency

THE COMPTROLLER OF THE CURRENCY
WASHINGTON

January 14th, 1938.

My dear Mr. President,

I desire to relinquish the office of Comptroller of the Currency, to which you appointed me in May, 1933 and to return to my home in California to take care of pressing matters there.

The banking crisis confronted you immediately upon assuming office. Not in the entire history of the nation had the country witnessed such a complete disruption of our financial system. With all the banks closed, your voice went into every home in America and replaced fear with confidence. You recommended a banking bill to Congress which was passed unanimously by both Houses giving wide powers to the Secretary of the Treasury, and to the Comptroller of the Currency.

Upon my taking office you outlined several main objectives; 1st - immediate distribution to depositors in the closed national banks of all possible dividends, 2nd - the strengthening of the capital structures of national banks to insure greater safety to depositors. When you received the approximate valuation of the assets in closed national and state banks you authorized the Government to loan a billion dollars to relieve distressed depositors, and a pledge of the assets of these closed banks as security for the loan. This placed a burden upon the Secretary of the Treasury to secure this money, upon the Reconstruction Finance Corporation to loan it, and upon the Comptroller of the Currency to disburse that part loaned to national banks.

Of the billion dollars loaned, depositors of closed national banks received almost $400,000,000.00, which together with cash on hand and the proceeds of securities and other assets liquidated, has enabled the distribution by this office to depositors since the banking holiday of $893,476,548.00. Of the amount borrowed from the Reconstruction Finance Corporation, all except approximately $7,000,000.00 has been repaid. It is

Hon. Franklin D. Roosevelt - 2

impossible to estimate in any degree the benefits of this policy to a distressed nation. Computing the difference in the rate of interest between what the Government paid and charged, the Government will make a profit of approximately $10,000,000.00.

With reference to your second objective, namely, the strengthening of the capital structures of our national and state banks, you will recall that upon the recommendation of the Secretary of the Treasury, you approved the purchase of preferred stock in the national banks of approximately $500,000,000.00. This not only made the banks liquid but relieved the banks of the necessity of pressing debtors, and gave greater security to depositors. The national banks have repaid $220,000,000.00 and in my judgment there will be a handsome profit to the Government in this transaction.

Your great interest in the depositors of all banks and your desire to avoid a repetition of the tragedy of 1932 and 1933 is again evidenced in your support of Federal Deposit Insurance. I recall our conversations when the bill was under consideration in Congress, and particularly the conference in your office of leaders of both Houses when you requested their co-operation in passing the bill. Seldom has there been such united opposition as there was against the insurance feature of the bank act of 1933.

Immediately after the passage of the Act you wrote a personal letter to the Governor of each State suggesting that it might be necessary in some instances for legislative action to take advantage of the benefits of the bill. It was no small task to lay the foundation and set in motion the machinery which would examine some 9,000 state banks which theretofore had never been under the jurisdiction of the Federal Government. Step by step as the details were worked out you suggested changes and approved the plans in general and when the two other members of the Board were appointed by you in September, 1933, the organization was instantly completed, the plans officially approved, and deposit insurance was assured of success.

Hon. Franklin D. Roosevelt - 3

Only the extraordinary and new duties and work of this Bureau have been mentioned. The regular work has been omitted. As a result of the policies which you outlined and which have been carried out during the past nearly five years, the following conclusions are of interest -

1st. - The highest total deposit figure ever reached in the national banking system has been reached during your Administration.

2nd. - Fewer national banks have closed than in any Administration over the same period of time. Beginning with the close of the banking holiday to -

	October 31, 1933,	failures	numbered	- 3
For year ended -	October 31, 1934	"	"	- 1
	October 31, 1935	"	"	- 4
	October 31, 1936	"	"	- 0
	October 31, 1937	"	"	- 4

October 31st of each year is used, as that date represents the close of the fiscal year of the Comptroller's office. In the nine national banks which failed in the years 1934 to 1937 inclusive, 98.7 per cent of the depositors were fully protected by Federal Deposit Insurance.

In conclusion permit me to say that the banking structure of the nation was never on a more solid basis than it is today. Our banks have ample funds either on hand or temporarily held under Federal Reserve requirements to meet any and every legitimate demand of business. The results which have been obtained could not have been accomplished without the most cordial co-operation and sympathetic understanding on the part of both of your Secretaries of the Treasury - Mr. Woodin, who served during the banking crisis, and Mr. Morgenthau, who has served during the reconstruction period. These fine public servants are due a debt of gratitude for their earnest and intelligent support of this Bureau in the many involved problems which have confronted it.

Hon. Franklin D. Roosevelt - 4

It has been a great honor to have served you during this period. Your kindness to me is a memory which I shall cherish in the years to come. With deep gratitude, I am

Very cordially yours,

J. F. T. O'CONNOR
Comptroller

Honorable Franklin Delano Roosevelt,
President of the United States,
The White House,
Washington, D. C.

President Roosevelt's Letter of Acceptance of J. F. T. O'Connor's Resignation as Comptroller of the Currency

THE WHITE HOUSE
WASHINGTON

January 19, 1938

My dear Jefty:

Your letter of January fourteenth requesting me to relieve you of your duties as Comptroller of the Currency of the United States is on my desk.

I must regretfully accede to your request but, in view of the fact there remains important unfinished work in connection with the payment of dividends to depositors in closed national banks requiring at least your part time attention, I shall ask you to withhold your resignation until April first. In my opinion, this course of action will enable you to take care of pressing matters in your home State of California and yet gives you an opportunity to return here as often as necessity requires during the interim.

The review in your letter of the work accomplished since I asked you shortly after the inauguration in 1933 to leave your law practice and come to Washington as Comptroller of the Currency is ample evidence of a job well done. The nation, as well as you and I, remembers those first days in 1933 but much of their stress and strain has been forgotten, and it is my firm belief a strong contributing cause for forgetting has been the achievement of the objectives outlined in your letter. The strengthening of the capital structure of our banking system is attested by the few failures of national banks in the last five years, a record, as you have pointed out, surpassing that of any previous administration.

This record would be a satisfactory achievement for the lifetime of most people, but I know that the same faithful and intelligent service which you have rendered the nation as Comptroller of the Currency will be cheerfully and successfully given to whatever task you may assume.

Although your return to California will bring to an end our pleasant conferences of the past years, I am sure that our friendship is to continue even stronger in the years ahead.

Cordially yours,

Franklin D Roosevelt

Honorable J. F. T. O'Connor
Comptroller of the Currency
Treasury Building
Washington, D. C.

President Roosevelt's Letter Relative to 75th Anniversary Celebration of Bureau of Comptroller of the Currency

THE WHITE HOUSE
WASHINGTON

February 23, 1938

Dear Jefty:

I am glad to learn that plans have been formulated to recognize the seventy-fifth anniversary of the beginning of the work of the Comptroller of the Currency. Nothing, perhaps, indicates in a more striking manner the fiscal growth and expansion of the country than the story, decade by decade, of the activities of the Comptroller's office.

It is a far cry from the comperatively modest scope of the work of the Bureau set up in Lincoln's administration to the present time. The vision of the great Lincoln himself could hardly have foreseen the magnitude and importance of the work which it would fall to you, as Comptroller, to discharge during your incumbency of an office which had so modest a beginning.

In sending my greetings to those who are participating in the commemorative banquet, I desire once more to voice my appreciation of all your administration of the office has meant to the national finance during these last five years.

Very sincerely yours,

Franklin D Roosevelt

Honorable J. F. T. O'Connor,
Comptroller of the Currency,
Washington, D. C.

Secretary Morgenthau's Letter Relative to 75th Anniversary Celebration of Bureau of Comptroller of the Currency

THE SECRETARY OF THE TREASURY
WASHINGTON

February 25, 1938.

Honorable J. F. T. O'Connor,
Comptroller of the Currency,
Washington, D. C.

Dear Jefty:

I am sorry that I shall not be able to attend the dinner tonight commemorating the seventy-fifth anniversary of the establishment of the office of the Comptroller of the Currency. I hope that in my absence you will convey my greetings to those present and especially to the members of your staff who have worked so loyally and so faithfully in these last few years as to bring new honor to their division of the Treasury.

Certainly no period in the seventy-five years has seen more epochal happenings than the last five and I believe no other period has seen equal progress toward a sounder banking system. For that result you and those who meet with you tonight deserve a great share of the credit.

I appreciate greatly the fine co-operation I have received from you and the members of your staff and I take this occasion to express my thanks and my appreciation to you and to them.

Sincerely,

Henry Morgenthau Jr

Secretary of the Treasury.

Couzens Resolution

[Public Resolution—No 58—72d Congress]

[S J. Res. 256]

JOINT RESOLUTION

Authorizing the Comptroller of the Currency to exercise with respect to national banking associations powers which State officials, may have with respect to State banks, savings banks, and/or trust companies under State laws.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, with the approval of the Secretary of the Treasury, the Comptroller of the Currency shall have and may exercise to such extent as he deems advisable with respect to any national banking association any powers which the State officials having supervision of State banks, savings banks and/or trust companies in the State in which such national banking associations are located may have with respect to such State institutions under State laws now in force or hereafter enacted: Provided, That nothing herein shall be construed to permit the establishment of branches of either national or State member banks or allow consolidation of either national or State member banks not allowed by existing laws.

Expenses incurred by the Comptroller of the Currency in the exercise of such powers may be assessed by him against the banks concerned and, when so assessed, shall be paid by such banks.

Nothing herein shall be construed to impair any power otherwise possessed by the Comptroller of the Currency, the Secretary of the Treasury or the Federal Reserve Board.

The powers herein conferred shall terminate six months from its approval by the President; but the President of the United States may extend its force by proclamation for an additional six months.

Approved, February 25, 1933.

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